

DOCUMENTS ON KASHMIR PROBLEM

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Edited by
M. S. Deora
R. Grover

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CONTENTS

DS 485
K2 1062
111
V. 3
MAIN

INTRODUCTION

ix

- | | |
|---|-----|
| 107. Text of the Speech made by Mr. Gopalaswami Ayyangar (India) in the Security Council Meeting No. 285 held on 19 April 1948. | 3 |
| 108. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 285 held on 19 April 1948. | 24 |
| 109. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 289 held on 7 May 1948 | 63 |
| 110. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 382 held on 25 November 1948 | 94 |
| 111. Text of the Speech made by Sir Girja Shankar Bajpai (India) in the Security Council Meeting No. 382 held on 25 November 1948 | 100 |
| 112. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 382 held on 25 November 1948 | 105 |
| 113. Text of the Speech made by Sir Girja Shankar Bajpai (India) in the Security Council Meeting No. 382 held on 25 November 1948 | 108 |

114. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 382 held on 25 November 1948	109
115. Text of the Speech made by Mr. Korbel (Chairman of the United Nations Commission for India and Pakistan) in the Security Council Meeting No. 399 held on 13 January 1949	112
116. Text of the Speech made by Sir Benegal Rama Rau (India) in the Security Council Meeting No. 399 held on 13 January 1949	114
117. Text of the Speech made by Mr. Shaffi (Pakistan) in the Security Council Meeting No. 399 held on 13 January 1949	116
118. Text of the Speech made by Mr. Samper (Chairman of the United Nations Commission for India and Pakistan) in the Security Council Meeting No. 457 held on 17 December 1949	117
119. Text of the Speech made by Sir Benegal N. Rau (India) in the Security Council Meeting No. 463 held on 7 February 1950	120
120. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 463 held on 7 February 1950	147
121. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 464 held on 8 February 1950	161
122. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 465 held on 9 February 1950	212
123. Text of the Speech made by Sir Benegal N. Rau (India) in the Security Council Meeting No. 466 held on 10 February 1950	266
124. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 466 held on 10 February 1950	285

- | | |
|--|-----|
| 125. Text of the Speech made by Sir Benegal N. Rau (India) in the Security Council Meeting No. 469 held on 8 March 1950 | 302 |
| 126. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 469 held on 8 March 1950 | 304 |
| 127. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 470 held on 14 March 1950 | 314 |
| 128. Text of the Speech made by Sir Benegal N. Rau (India) in the Security Council Meeting No. 533 held on 1 March 1951 | 316 |
| 129. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 534 held on 6 March 1951 | 330 |

INTRODUCTION

The history and culture of Jammu and Kashmir were part of the pan-Indian civilization. It was partly due to geography, the Himalayas and the Western and Eastern ranges separating it from rest of the world, and partly due to the Brahmanical culture, with Sanskrit as the lingua franca, which gave it a unity in the eyes of the upper strata of society. From centuries, Kashmir remained free from racism, communalism and casteism even during the communal structure of Dogra Raj. The National Movement against the feudal exploitation, led by Sheikh Abdullah, which was started in 1930 and continued upto 1947 was the result of the growth of national consciousness in Jammu and Kashmir. Various national leaders of India, including Pandit Jawaharlal Nehru and Maulana Abdul Kalam Azad recognized the democratic and nationalist spirit of this struggle. But British imperialists and the Hindu press tried to interpret and project it as a "result of the dispute between the Hindus and the Muslims". In spite of this, this anti-feudal movement was participated by a broad section of peasants and artisans came out to fight in the streets. This insurgency of 1931 awakened the national aspirations of the Kashmiris. Which ultimately helped in the emergence of a composite Kashmiri culture without any emphasis on Muslim sectarianism. By 1939, every conscious member of Hindu, Muslim and Sikh community joined the national movement. The anti-feudal and anti-imperialist struggle reached another high pitch in 1946. The AJKNC launched the "Quit Kashmir" movement and submitted a memorandum to the Cabinet Mission of 1946 demanding

absolute right to freedom from the autocratic rule of the Dogra house. The movement was to counter the threat of Muslim communalism that was spread in the wake of Pakistan movement of Muslim League. It also salvaged the tradition of secular nationalism in Kashmir. Launching this struggle for a decisive victory, Sheikh Abdullah, on 15 May 1946, reiterated at Srinagar that "the demand that the princely order should quit the state is a logical extension of the policy of "Quit India". When the freedom movement demands complete withdrawal of British power, logically enough the stooges of British imperialism should also go and restore sovereignty to its real owners, the people . . . the rulers of Indian states have always played traitors to the cause of Indian freedom. A revolution upturned the mighty Tsars and the French Revolution made short work of the ruling class of France. The time has come to tear up the treaty of Amritsar, and quit Kashmir. Sovereignty is not the birth right of Maharaja Hari Singh. Quit Kashmir is not a question of revolt. It is a matter of right". The Sheikh was arrested on the charge of sedition against the Maharaja. Following his arrest the whole valley rose in an uprising. On 19 June 1947 Pandit Jawaharlal Nehru, Aruna Asaf Ali, Dewan Chaman Lal and Tilak Raj Chadha went to Srinagar to defend Sheikh Abdullah at his trial but were arrested by the Maharaja's administration. On his return to Delhi, Nehru complained to Gandhiji and Maulana Azad, the Congress President that people in Kashmir were groaning under the reign of terror. Mahatma Gandhi visited Kashmir in August 1947 as a guest of National Conference.

The 'Quit Kashmir' movement kept the Muslim communalism in Kashmir at bay. Immediately after independence and the creation of Pakistan Jinnah decided to wrest Kashmir by force and sent raiders for this purpose. The Maharaja of Kashmir was fled. Jawaharlal Nehru decided to send troops to rescue Kashmir on the request of the Maharaja on 24 October 1947. It was done after Kashmir had legally acceded to India. On 26 October 1947 Sheikh Abdullah also formed a peace-brigade and the peoples' militia to defeat the aggression of Pakistan in the valley of Kashmir. Sheikh Abdullah, the doyen

of nationalism, succeeded in restoring Hindu-Muslim harmony in the valley when the rest of India was burning by communal holocaust. There was a good rapport between Sheikh Abdullah, Mahatma Gandhi and Pandit Jawaharlal Nehru. Congress demanded the release of Sheikh Abdullah, and the establishment of a popular government in Jammu and Kashmir. National Conference favoured accession of India without instrument of accession.

The Pakistan reacted sharply and contested the validity of the accession. India took the Kashmir question to the Security Council of the United Nations on 1 January 1948 (S/628). Pakistan made counter complaint (S/646) but admitted that some tribesmen from Pakistan might be helping the "Azad Kashmir government". After debate the Security Council passed two resolutions (S/651 and S/654). It appointed a three-member Commission to investigate and mediate in the matter. On 13 August 1948 the UNCIP submitted a report to the Council in three parts (S/1100, S/1196, and S/1430). Part first of the report contained provisions for a cease fire. Part two dealt with a true agreement, and part third with the holding of a plebiscite after the implementation of first two parts. India agreed but Pakistan did not. Later on both countries accepted the proposal submitted by the UNCIP to the Security Council on 5 January 1949 dealing with the plebiscite. The cease fire came into effect by 1 January 1949 and a cease fire line was agreed upon in July 1949. But a truce agreement could not be finalised due to opposite stands of both the countries.

The Security Council then appointed mediators. In 1949 General McNaughton of Canada was appointed as a mediator who's proposal was rejected by India. Sir Owen Dixon of Australia also could not succeed because he proposed the partition of Kashmir between both the countries rather than a plebiscite (S/1791). Frank P. Graham of the USA was the third mediator appointed in April 1951 also met with the same fate, however, he suggested a direct negotiation between India and Pakistan. He submitted five reports (S/2375, S/2448, S/2611, S/2783 and S/2967).

In July-August 1953 and in May 1955 the Prime Ministers of both India and Pakistan started negotiated settlement which ultimately failed. After a gap of five years the Pakistan Foreign Minister F.K. Noon raised the Kashmir issue in the UN Security Council and call upon India to refrain from accepting any change in the new constitution of Kashmir—the State of Jammu and Kashmir is and shall be an integral part of the Union of India—and to accept a plebiscite (SCOR, 12th Yr., Mtg. 761). Mr. V.K. Krishna Menon, the Indian representative informed the Council that the conditions for holding a plebiscite changed in Kashmir. (SCOR, 12th Yr. Mtgs. 762, 793 and 794). The Security Council favoured plebiscite by adopting a resolution (S/3739) on 24 January 1957. On 21 February 1957 President Gunnar Jarring of Sweden was asked to act as mediator but India refused to accept him for the implementation of the UNCIP resolution, (S/3821).

Meanwhile, the National Conference demanded special status and autonomy for Kashmir in the political—constitutional framework of Indian political system. Article 370 of the Indian Constitution granted Kashmir a special position. It produced a hostile backlash among the Hindi-Hindu fanatics including Sardar Patel and Hindu lobby which demanded conformity of minority to Hindu majority views as well as uniformity by force. In Kashmir this Hindu lobby started non-cooperation movement against the government led by Sheikh. It was supported by the Jana Sangh, the Hindu Mahasabha, the RSS and even by the Akali Leader Master Tara Singh and Mr. S.P. Mookerjee. They criticised Nehru's appeasement policy towards Kashmir. Mr. Mookerjee called this policy as "national liability". This non-cooperation was also supported by Jayaprakash Narayan and Acharya Kripalani. This fanning of the flame of Hindu communalism—especially, in Delhi, Uttar Pradesh and Punjab—resulted in the ambivalence in Sheikh's position about accession to India. Nehru succumbed before these reactionary elements ultimately. Sheikh Abdullah now came to the conclusion that "there was no middle course between full integration and full autonomy, and as the majority

in Kashmir would not accept the first alternative, there was no choice but to accept the second."

Finally on midnight of 8-9 August 1953, the popularly elected leader of Kashmir was dismissed and imprisoned in a most undemocratic and uncereemonious fashion by violating the special provisions made in the Article 370 of the Constitution.

On 2 December 1957 Security Council passed a resolution S/3922 after considering the Jarring report and directed P. Graham to make recommendations (S/3984) to the parties for facilitating a peaceful settlement and for the implementation of the resolutions of the UNCIP of 13 August 1948 and 5 January 1949. The Graham report was rejected by India.

During Ayub Khan's regime Nehru-Ayub talks commenced in 1959 and 1960. On 6 October 1960 President Ayub Khan gave a threat of military settlement of the Kashmir Problems. Threats and counter-threats continued till Chinese aggression on India in October 1962. Besides Pakistani slogan of *Jehad* President Ayub Khan put pressure on USA to exercise its influence for the settlement of the Kashmir issue. The matter was again raised in the Security Council on 1 February 1962 by Pakistan Permanent Representative Zafrullah Khan who asked the Council to take up the consideration of the dispute and to secure to the Kashmiri people their right of self-determination (SCOR, 17 Yr. Mtg. 990). In the subsequent meetings of the Security Council (Mtgs. 1007 to 1016) Mr. Zafrullah Khan put forward his arguments in support of Pakistan's claim over Kashmir. Mr. C.S. Jha, India's permanent representative to the UN and Defence Minister Krishna Menon contested the Pakistani contentions (SCOR, Mtg. nos. 1009, 1011 and 1016) and reiterated India's claim over the state. Pakistani contention was supported by the U.S. representative and Indian position by the Soviet and Rumanian representatives. US and British representatives on 27 April 1962 tried to persuade the UN Secretary General U Thant for negotiating settlement. The issue was again raised by Mr. Plimpton, US representative, on 21 June 1962 and on 22 June 1962 when he succeeded in persuading the Irish representative to introduce draft resolution which was vetoed out by the Soviet Union (SCOR, 17 Yr. Mtg.

1016). Prime Minister Jawaharlal Nehru expressed deep concern over the attitude of Great Powers—the U.S.A. and the U.K. After the Chinese invasion on India both Nehru and Ayub agreed for negotiated settlement. Six round of Bhutto—Swaran Singh talks were held between 27 December 1962 to 16 May 1963. The talks failed on the question of distribution of areas.

The disturbances in Kashmir on the disappearance of the hair of prophet Mohammad from the Hazaratbal shrine on the night of 26-27 December 1963 gave opportunity to Pakistan to raise Kashmir question in the Security Council. Though the hair was recovered, Pakistan's Minister of External Affairs, Z.A. Bhutto sent a letter to the Security Council for an urgent meeting (S/5516) to debate on grave situation of the State. Mr. Bhutto asked for a "move towards an honourable and joint solution" of the problem in Security Council's meetings held between 7 February to 11 May 1964 (Mtgs. Nos. 1087, 1089, 1104, 1112 and 1114). Refuting the charges Mr. M.C. Chagla and Mr. B.N. Chakraverti described the incident as "purely a domestic matter". (Mtg. nos. 1088, 1104, 1113 and 1115). Though Mr. Roger Seydoux, President of the Council submitted his statement on 18 May 1964 but nothing tangible came out of the debate. (SCOR, Mtg. no. 1117).

The Indian government released Sheikh Abdullah on 8 April 1964 withdrawing all charges against him. He was sent to Pakistan to resolve the issue but sudden death of Nehru on 27 May 1964 dashed all hopes. Ayub-Shastri meeting on 12 October 1964 at Karachi and J.P. Narayan's visit to Pakistan brought no change in the attitude of both the countries. Meanwhile Sheikh Abdullah was again arrested on 8 May 1965 on charge of anti-India propaganda. Sino-Pak unison persuaded Pakistan to send armed infiltration into the valley from 6 August 1965. India reacted against this attack specially in the Chhamb. The war was stopped on 22 September. Tashkent Declaration, signed on 10 January 1966 restored the *status quo* in Jammu and Kashmir as it was existed before the 5 August 1965. The Pakistan Foreign Secretary Ahmed and later on 14 January 1966 President Ayub Khan declared that peace could

not be achieved unless the dispute over Jammu and Kashmir was settled honourably and equitably. Bhutto also blamed India for creation of the problem. Talking to the British Prime Minister Harold Wilson on 23 November 1966 Pakistani President Ayub Khan said that people of Kashmir "did not like Indian rule" and added that India did not honour the commitment under the Tashkent Declaration. Not only this while speaking before the UN General Assembly meeting on 29 September 1966 Pakistan Foreign Minister, Sharifuddin Pirzada accused India for not honouring the UNCIP resolution of 13 August 1948 and 5 January 1949 about holding of a free and impartial plebiscite (GAOR, Pln. Mtg. 1423). He also tried to raise this issue in the Commonwealth Prime Minister's meeting held in London on 13 September 1966. He charged the Indian government with reluctance to allow the Kashmiri people to exercise the right of self-determination. Even Prime Minister Mrs. Indira Gandhi gave a statement in Lok Sabha that "India is not obliged by the Tashkent Declaration to settle the Kashmir dispute with Pakistan". Pakistan government started anti-India propaganda. Ayub Khan described Indian army as "special danger to Pakistan". He stressed on the solution of the Kashmir problem. On 10 October 1967 Pakistani Foreign Minister Mr. S. Pirzada raised a question in the UN General Assembly meeting (GAOR, Pln. Mt. 1584) and demanded "self-determination" for the people of Kashmir, to which India was committed. Similar demands were made by Arshad Hussain, the new foreign minister of Pakistan in the UN General Assembly meeting (GAOR, Pl. Mtg. 1682) and Pakistan's National Affairs Minister Nawabzada Muhammad Sher Ali Khan (GAOR, Pln. Mtg. 1775) on October 2, 1969. Pakistani Home Minister Sardar Hamid accused India for avoiding discussions in the United Nations (GAOR, Pln. Mtg. 1853) on 29 September 1970. Meanwhile, Pakistani press, specially *Pakistan Times* and *Dawn* made vehement propaganda against India. "That India is suppressing freedom of the press in occupied Kashmir and adopting ruthless measures in curbing the students and youth". Kashmiris are treated as second class citizens. Pakistan supported the terrorists in Kashmir.

A hand grenade was thrown on the Kashmir Chief Minister, G.M. Sadiq on 16 May 1966. Terrorists confessed that they were imparted training by Pakistani officers. The subversive activities of the Pakistani infiltrators continued till date. The cease-fire violations took place frequently. Both India and Pakistan accused each other for violation of cease-fire agreement. In short Kashmir remained full disturbed between 1966 and 1969.

Pakistan protested strongly against India's measures to extend the application of Indian laws to Kashmir and described these contrary to the UNCIP and other resolutions of the United Nations. These bills, according to Pakistan, would give sweeping powers to the Indian Government to outlaw any organisation or any individual found guilty of questioning the India's sovereignty over any of the territories.

On 11 January 1968 Prime Minister Mrs. Indira Gandhi and Deputy Prime Minister, Morarji Desai desired to normalise relations with Pakistan by implementation of Tashkent Agreement but Pakistan did not respond favourably. Pakistan was insisting on "meaningful discussions on Kashmir". India's appeal to Pakistan for 'no-war pact' was turned down by Ayub Khan who described this proposal as "misleading" unless Kashmir dispute was solved. During the time Sheikh Abdullah and Mirza Afzal Beg were released from Jail on 3 January 1968. They demanded self determination for the Kashmiris. The hostile and anti-India attitude of Sheikh Abdullah put India in embarrassing situation.

General A.M. Yahya Khan who assumed the charge from President Ayub Khan on 25 March 1969 showed his willingness for sometime to establish a peaceful atmosphere between the two countries. Mrs. Indira Gandhi sent a personal letter to Mr. Khan on 22 June 1969 and suggested to revive the no-war pact proposal and a joint machinery to examine comprehensively all aspects of normalisation of relations. General Yahya Khan accepted the proposal with provision that the machinery of Indo-Pakistani body should discuss all issues including Kashmir and Farakka barrage. But after the exchange of letters between the two governments, no follow-up actions

could be taken up by either of the governments. Instead President Yahya Khan banned all the exchange of printed materials between India and Pakistan, commercial, economic and cultural relations were completely cut off. Tashkent agreement, though Mrs. Indira Gandhi wanted to implement, went unsung and unheard. On 28 July 1970 President Yahya Khan again asked for amicable solution for Kashmir problem to establish cordial relations between both the countries.

Mr. Z.A. Bhutto advocated for quasi-military approach for the solution. Ashohar Khan recommended Algeria type struggle for Kashmir liberation. General Yahya Khan raised Kashmir's issue in UN General Assembly in October 1970 and demanded 'self determination' and withdrawal of forces of the two countries. India rejected the proposal and told that the State's accession to India in 1949 was complete. However, India favoured bilateral talks under Tashkent spirit. Mr. Z.A. Bhutto exploited the situation by raising war bogy against India. He formed Pakistan People's Party on 1 December 1967. December 1970 polls in Pakistan brought conflict between East and West Pakistan, ultimately resulted into the creation of Bangladesh. India-Pakistan relations were further deteriorated when on 30 January 1971 an Indian Airlines plane was hijacked to Lahore with Pakistani connivance and was allowed to be blown up at the Lahore airport. Hijackers were granted asylum and were given hero's welcome there. India banned all Pak flights over the Indian territory. After India-Pakistan war of 1971 both Mrs. Indira Gandhi and Mr. Z.A. Bhutto on 2 July 1972 concluded an agreement at Simla. It was promised to respect line of control resulting from the cease-fire of December 17, 1971 in Jammu and Kashmir. They also decided to settle the Kashmir issue by mutual talks. President Zia-ul-Haq, Prime Minister Benazir Bhutto, Rajiv Gandhi, V.P. Singh and Sheikh Abdullah came and went but the Kashmir remained unsolved.

Documents on Kashmir Problem is an excellent attempt of authentic and comprehensive compilation of published documents and other literature on the subject—Kashmir dispute. It presents the text of important documents including publications

of the Government of India and Pakistan, United Nations official documents, treatments, treaties, agreements, proposals, debates—both in UN Security Council, General Assembly and Parliamentary debates—reports and recommendations, letters, telegrammes etc. The publication would help the research scholars, academicians, educationists, politicians as well as curious laymen in understanding the issue. Compilers have made an honest attempt to be objective and impartial in compiling, editing, and presenting the documents to prove their authenticity, the sources of documents are also added.

We express our deep sense of indebtedness to the library staff of Indian Council of World Affairs Library, New Delhi, Nehru Memorial Museum Library, New Delhi, United Nations Information Centre, New Delhi, Jawahar Lal Nehru University Library, New Delhi, and Ministry of External Affairs Library, New Delhi for the help rendered to us during our visits there.

**Discussion
of the India-Pakistan Question
in the Security Council**

*107. Text of the Speech made by Mr. Gopalaswami Ayyangar
(India) in the Security Council Meeting No. 285 held on
19 April 1948*

I desire at the outset to render thanks on my own behalf and on that of my delegation and my Government to the President and his predecessors in the presidential chair for the time, labour and trouble they all have given to a study and understanding of the problem which we brought to the notice of the Security Council [document S/628]. Your approach has been objective throughout, and you have drawn unstintingly upon your diplomatic gifts and experience for helping the disputant countries to reach an amicable settlement here at Lake Success, if possible. If that settlement has not yet finally been reached, the responsibility for the failure cannot be attached to any one of the four Presidents personally. India is grateful to them all for the consideration, courtesy and help shown throughout the debates in the Security Council, as well as in the private consultations.

India is a peace-loving nation, and is determined always to act, both in national and international affairs, so as to live up to that description of a Member of the United Nations. Its faith in the principles, ideals and hopes that inspire the Charter, particularly in that part of it which relates to the peaceful settlement of international disputes, is sincere and wholehearted. It will continue to be so unless and until it is shattered by the compelling logic of facts arising from the actual functioning of the organs of the United Nations over a continuous period and in respect of a number of cases.

We in India take the Charter seriously. We should not otherwise have come here. We fondly hoped that the final response to our transparent and simple trust in this Security Council's utility for achieving pacific settlement would sustain both our faith and our judgment.

We have been at this question for nearly four months. Towards the end of our debates in the first phase—comprising the dark days not only of January but of the early part of February—I felt that the trend of opinion in the Security Council on what we regarded as fundamentals was such that,

if it had then been allowed to crystallize itself into a resolution, the result would have been an impasse. I therefore asked for and, after some hesitation, obtained, a temporary interruption of the consideration of the question by the Security Council. The adjournment not only gave me and my delegation the opportunity we badly wanted for a personal discussion with our Government, but, as subsequent indications have shown, it also enabled members of the Security Council to study the problem afresh and at leisure during the interval, and to review their previous reactions to its different aspects.

The result was that when we resumed the discussion in March the prospects seemed distinctly more hopeful. In apprising the Security Council of the results of my consultations with my Government, I said, on 10 March [266th meeting], that our stand on fundamentals would continue to be the same as before my departure for India. I stressed, however, our readiness to consider any suggestions for ensuring to the maximum degree possible the freedom and impartiality of the plebiscite, and I indicated that this should be quite possible without affecting our stand on fundamentals. Between 10 March and 18 March, Mr. Tsiang, who was then President of the Security Council, held informal consultations with the delegations of the two parties, as well as—I have reason to believe—with the representatives of two or three other delegations of Security Council members.

The outcome of these consultations was the draft resolution which Mr. Tsiang placed before the Security Council for consideration on 18 March [document S/699]. He explained its principal features in a speech which was followed by a short debate [269th meeting]. The Security Council then adjourned and the question was placed on the agenda again only a month later. The interval has been employed in further informal consultations and consequent successive revisions of Mr. Tsiang's draft, the last of which is the one now under consideration.

If I may permit myself to say so, Mr. Tsiang's draft resolution of 18 March was a valiant attempt at a just compromise, embodied in draft articles of settlement to be accepted

by both parties. It broke away courageously from the January-February ruts of argument and opinion. However, it was by no means above justifiable criticism from our side. It would have required some amendments before we could have accepted it in its entirety but, subject to these, I straightaway accepted it in substance, since it did not commit us to any departure from our fundamentals. My Government has since endorsed this acceptance and has authorized me to repeat it to the Security Council.

The cardinal features of this scheme were the following. First, Pakistan should effectively cease giving help in men, material, bases and transit to invaders and rebels in Jammu and Kashmir. Secondly, India, while reducing the strength of its army in Jammu and Kashmir after the fighting had ceased, was to retain there a minimum number of troops which would be sufficient for defence, as well as for supporting the civil power. There was to be no provision for any other army. Thirdly, the Interim Government of Jammu and Kashmir was to include representatives of major political parties. Fourthly, separate plebiscite machinery was to be set up as a formal branch of the Jammu and Kashmir Government; while deriving its authority from that Government, the plebiscite machinery was to be administered by a director and a number of deputies nominated by the Secretary-General of the United Nations and functioning with the maximum of independence.

This scheme exhibited a happy combination of healthy features. It avoided any unnecessary or improper encroachment by outside authorities on the sovereign powers exercisable in the State by the Jammu and Kashmir Government and by the Government of India within their respective constitutional spheres. It respected constitutional proprieties in the relations which, in a federal structure, should subsist between the Government of India and the Government of a State which had acceded to India. Above all, in the arrangements it contemplated it gave due recognition to the obvious requirements of administrative workability.

It is a matter of profound disappointment and regret to us that, in the subsequent conferences held informally by the

President with his colleagues of the Security Council—including the representatives of the United States of America and the United Kingdom—Mr. Tsiang's scheme has been twisted out of shape in essential particulars. The approach has been altered in important respects. Practically every amendment of substance to the 18 March resolution which has been made by way of alteration or addition is, from our point of view, a definite worsening of our position, and constitutes a breach—in some cases, a violent one—in our fundamentals. The scheme of 18-March has thus been so attenuated in the draft resolution presently before the Security Council, that it is not now possible for us to agree to the draft resolution.

As pointed out by Mr. Tsiang [284th meeting], there were three earlier drafts of the present draft resolution. We attempted to get each of them so amended as to bring it into accord with our fundamentals. Our attempts were unsuccessful. Therefore we do not, at the present stage when a majority of the members of the Security Council have pledged their support to the resolution, propose to suggest any specific amendments.

If we were free and felt inclined to do so, there are amendments which we should like to see made in practically all the clauses: in some, amendments of substance; in others, of drafting. I have, in the circumstances in which we find ourselves today, decided to content myself with stating our main objections of substance to the draft resolution, and with placing before you and on record my strong opposition to its adoption by the Security Council as it stands.

Perhaps the most unsatisfactory feature of the draft resolution now before the Security Council is the scant consideration given in it to the issue on which we invoked the jurisdiction of the Security Council under the Charter, the issue the satisfactory handling of which by the Security Council is essential for avoiding the threat to the maintenance of international peace and security.

Sanguinary fighting has been in progress in the territories of the Jammu and Kashmir State for six months now between the Indian army and the State forces on the one side, and armed tribesmen and other Pakistani nationals, together with

the local rebels against the State Government, on the other. It is India's case that the fighters against constituted authority in the State derive all manner of help—men, arms, ammunition, other supplies, motor and other transport, bases of operation, transit facilities, gasoline—from or through Pakistan territory, and that the Pakistan Government has directly or indirectly allowed all this assistance to be given, and has done nothing of an active nature to stop it or to prevent this invasion of Jammu and Kashmir State from and through Pakistan.

The number of tribesmen and other fighters from the outside has run into many thousands for several months. The number of tribesmen alone is estimated even now at over 20,000, and accounts for half the strength of the enemy, the other half being composed of Pakistani nationals and local insurgents. Apart from the accounts of eye-witnesses, the geographical and physical factors compel the conclusion that armed hordes of this magnitude could not have entered the State of Jammu and Kashmir except from or through Pakistan territory, and that neither they, nor even the local insurgents, could have sustained the fighting for so long were it not for the arms, ammunition, supplies and transport they had been getting from Pakistan. Short of obtaining an official declaration of war by the Pakistan Government and the use of their regular army openly for conducting military operations in Jammu and Kashmir, the fighters have been and are obtaining all other help and assistance on Pakistan territory.

These conditions contain the potentialities of an armed conflict breaking out any day between the two Dominions; and inasmuch as Pakistan's active complicity, or even its passive acquiescence, in this affair is an unfriendly act whose continuance might precipitate a war, even in circumstances in which India might be acting legitimately in dealing with those who raid the State, we sought the intervention of the Security Council. The threat of war is by no means diminished. Its imminence is as great now as it was at the end of December last.

During the last few days, military operations have intensified as the result of the advance of the Indian Army in its campaign

for recapturing areas now under the control of the raiders and expelling them from the State. This advance is making the tribesmen, in their defeat, more brutal in their treatment of the local civilian population.

Much against my inclinations, I wish here to refer to what happened in a place called Rajaori within the last few days. Yesterday, I had the unique honour of receiving a cabled message from the head of the Azad Kashmir Government. That message reads as follows:

"Rajaori, a town in Jammu Province, captured by Indian Army. Indian Army resorting to atrocities unknown to the civilized world. Four thousand Muslim civilians put to death mercilessly in the surrounding area in Rajaori Town and Rajaori itself.

"Eyes of the people put out to victimize and terrorize them. One hundred thousand people driven out of these areas in two days. They have been rendered homeless and are without food, exposed to death and destruction."

The Security Council must come to some judgment as to the veracity of the details sent to me in this telegram by the head of the Azad Kashmir Government. Fortunately, I have in my possession reports which had reached me previous to my receipt of this particular telegram. I shall first read to the Security Council a few extracts from the account of a special correspondent of a leading newspaper in Delhi, *The Hindustan Times*, who happened to visit Rajaori after this incident. In a dispatch dated 14 April from Rajaori, described as the "granary of Jammu Province" where the Emperor Jehangir died on his way back from Srinagar, the correspondent writes:

"This is a story of a death town of horrible and ghastly tragedy, which the advancing Indian troops, in spite of their best efforts, have been unable to prevent and of which they are mere helpless spectators. Here is the sequence. First, the raiders and their officers order the town inhabitants to collect in the public square together with all their movable

belongings and cattle. Then the raiders take charge of all cattle and drive the animals into the hills. Next the Muslim inhabitants are ordered to separate themselves from non-Muslims. As soon as this is done, the Muslims are ordered to flee into the interior along a particular route taking their movable belongings with them in bullock carts, and the non-Muslims are ordered to form themselves into a line. Then there begins a systematic massacre of all the males except those between the ages of 25 and 30 who are healthy and strong. These are formed into a slave-labour gang and ordered to dig new positions for the raiders in the nearby hills and regions. The women and their belongings are distributed by the tribesmen between themselves.

"No accurate estimate of the numbers of people massacred in cold blood at Rajaori by the retreating tribesmen is yet possible, but there can be no question that it has been a massacre on a major scale. One or two people who have now managed to make their way into the Indian lines declare the town had a population well over 5,000 a week ago. I have just been talking with Khuda Bux, a former resident of Rajaori, who has managed to escape from the clutches of the raiders, and he declares that the people in the area want nothing more than to get rid of the raiders.

"Indian Army troops found the streets littered with bodies. Horror-stricken people told them how, on the night before our entering the village, the raiders turned their fury on the unarmed population and indulged in the wildest excesses of barbaric cruelty. Large sections of people were killed, houses were burned and women were abducted. In Rajaori it has not yet been possible to make an exact estimate of damage and atrocities committed by retreating raiders. But three big pits full of bodies—which remind us of the well in Palestine—now have been located on the outskirts of the town. In addition to wholesale massacre of Indian nationals, the raiders, according to local reports, have abducted 700 women from here."

Further on the dispatch states:

"According to reports reaching here, large numbers of motor vehicles, apparently bringing supplies and ammunition, have been pouring across the Pakistan border into Mirpur during the last few days."

That is the account of a newspaper correspondent who visited Rajaori after it had been recaptured by the Indian Army.

Perhaps I could convey greater conviction to the Security Council if I read two official reports addressed to me. One, from the Defence Ministry in New Delhi, dated 15 April, states:

"Reports received from Rajaori state that raiders, on retreating, adopted a scorched earth policy leaving houses burning in their wake. Report also states that the tribal element massacred local Hindus as well as Muslims during their retreat, and the numbers of such dead are heavy. Three large pits, approximately fifty yards square, full of dead bodies have been discovered just north of Rajaori. Locals who fled to the hills when massacres started are straggling in now so shaken by their suffering that interrogation is difficult."

I shall read also an extract from a later telegram dated 16 April, addressed to me by the Prime Minister of India:

"The raiders indulged in large-scale massacre of the civilian population and abduction of women and wholesale destruction of property. In fact, their behaviour in Rajaori before they were compelled by our troops to evacuate was even worse than the behaviour of the raiders in Baramula. You may point out to the Security Council that you find it difficult to understand how to deal with such creatures on any known level."

I leave the Security Council to choose between the facts or the allegations sent to me by the head of the Azad Kashmir

Government and the account which I have received from my own Government, as well as the account which I have read by a newspaperman.

With reference to the last observation of my Prime Minister in his telegram, I would only say that wild animals in human shape recognize none of the restraints which civilization imposes on human conduct, even in war. Perhaps some might be tempted to say: even civilized nations, for example Germany, did not recognize them during the Second World War; why expect tribesmen to avoid such exhibitions altogether?

But the real question for our purpose here is this: is Pakistan not blameworthy in letting these fiends loose on the innocent Muslim and non-Muslim population of Kashmir? One looks in vain in the draft resolution under consideration for even a mere mention of Pakistan's dereliction of duty in this regard. It does not appear even in the preamble: somewhat anaemic reference to it in the preamble of the draft of 30 March has now been dropped out.

It has been said that sub-paragraph 1 (a) of the revised draft resolution recommends that Pakistan should undertake to use its best endeavours to prevent any intrusion of these hostile elements into the State, and it is suggested that that is a sufficient answer to the demand that we made in our complaint. However, I wish to point out that one does not confer such a duty upon a Government in a resolution of this type unless it is preceded by a recital that Government—in this case, Pakistan—has failed in that respect in the past. There is no such recital in this resolution. This omission is calculated to give the impression that, under sub-paragraph 1(a), Pakistan is shouldering an onerous service in the cause of world peace and security, rather than that—in the future at least—it will be fulfilling the obligation which has always lain upon it and which it has not so far discharged during the past six months.

Indeed, this might be the impression which a person unacquainted with the facts might obtain from what was said even by my distinguished friend from the United Kingdom. His words were as follows:

“Third, the draft resolution imposes a heavy duty on

Pakistan in helping to stop the fighting and to prevent its breaking out again [284th meeting]."

I am sure that the representative of the United Kingdom, fully acquainted as he is with the facts, did not intend the possible implication of his words, namely, that the duty to be undertaken by Pakistan is a creation for the first time of this resolution. I have stressed this international obligation in the debates we have previously had, and I should like, on this occasion, to refer only to one statement of that obligation made before the General Assembly of the United Nations by no less a person than Secretary of State Marshall of the United States. In his address to the General Assembly on 17 September 1947, speaking on the Greek question, he said:

"The extent or effectiveness of such assistance to the Greek guerrillas is not the point at issue here. It is a universally accepted principle of international law that for one nation to arm or otherwise assist rebellious forces against another Government is a hostile and aggressive act. Not only has this principle been upheld in a number of famous cases in international law, but it has also found expression in international agreements. The majority of the members of the Security Council have recorded their support of this principle by their action in this case."

If, as the Security Council and the General Assembly have already agreed in the Greek case, this is so well recognized an international obligation, should Pakistan not have begun to discharge it, at least after the Security Council's resolution of 17 January [document S/651]? In that resolution, the Security Council called upon the Government of Pakistan "to refrain from . . . doing or causing to be done or permitting any acts which might aggravate the situation."

The Government has made no attempt since that resolution "to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State". On the other hand, bases for the raiders still exist in Pakistan. The establishment on Pakistan territory of a factory for the

manufacture of certain arms and ammunition to be supplied to the raiders and rebels, has recently come to our notice. Men in large numbers and material in large quantities pass daily through Pakistan into Jammu and Kashmir; they are transported in hundreds of lorries. Two hundred shells from three howitzers were recently fired into Poonch Town from a neighbouring hill. No howitzers have been lost by the Indian Army and howitzers do not grow on trees near Poonch or anywhere else in the Jammu and Kashmir State.

A responsible officer of ours, possessing facilities for obtaining local information in Pakistan, reported to us some time ago as follows:

"A mountain battery of the Pakistan Government, in civilian dress, has been sent to the front. It consists of some 1,300 personnel, out of which about 600 have been sent to Nowshera front via Bhimber and 700 to Poonch front via Palandhri."

This battery has been observed in action by our troops at one of these fronts. I would not weary Security Council by giving further details of this description.

Should not this continuing breach of an obvious international obligation, and the active sustenance and encouragement it gives to the continuance and intensification of the fighting in the State, find mention somewhere in the resolution? The Security Council cannot refrain from doing so on the grounds that it does not have to pass upon any issue of fact, or that this resolution is not an award. The Security Council did not neglect to do so in the case of Greece. The General Assembly, following the majority opinion of the Security Council's Commission of Investigation, said in paragraph 3 of its resolution 109 (II) that the Commission had found:

"... that Albania, Bulgaria and Yugoslavia had given assistance and support to the guerrillas fighting against the Greek Government."

Even as recently as three days ago [283rd meeting], in the Security Council's resolution on the Palestine truce, the

Security Council said the same thing, by necessary implication, in the following words:

"Refrain from bringing and from assisting and encouraging the entry into Palestine of armed bands and fighting personnel, groups and individuals, whatever their origin [*document S/723*]."

Why is it that the sponsors have omitted from the revised draft resolution, sub-paragraph 1(b), the following words which were in the draft resolution of 18 March 1948 and in all the redrafts of it prior to that of 30 March? The words are:

"... by denying transit through, and the use of any bases in, Pakistan territory . . . [*document S/699*]."

The substance of a similar directive appears in the resolution on Greece. I know that an amendment, importing a similar specific directive to offending parties into the Palestine truce resolution, which was submitted by the USSR representative, was turned down by the Security Council. I wonder if this indicates a change of policy on the part of the Security Council, commencing with the final draft in our case, which had been prepared earlier than the day on which the truce resolution was considered?

It has been argued that the words "to prevent" will also cover all these cases. But may I suggest that the original words were probably omitted because they might imply a remote reference to past delinquency? "To prevent", again I take it, is something more positive than "to discourage".

In Pakistan's answer to our complaint, the following words occur:

"... the Pakistan Government have continued to do all in their power to discourage the tribal movement by all means short of war [*document S/646*]."

Even this milk-and-water policy is said to have caused better resentment throughout Pakistan, but despite a very serious risk

of large-scale internal disturbances, the Pakistan Government claim that they have not deviated from it. Can the use of the words "to prevent", in the revised draft resolution now before the Security Council, be interpreted as a clear commitment on the part of Pakistan that if it is unable, by peaceful means, to prevent the movement of tribesmen and others into Jammu and Kashmir for fighting, it will use armed force against them for discharging the obligation under sub-paragraph 1(b) of the draft resolution?

Unless this commitment is unequivocal, the undertaking "to prevent" is not of any practical value. I am not interested in obtaining from the Security Council a verdict of "guilty" against Pakistan in this matter. The world is fully seized of the facts. Neither do I object to deferring to the susceptibilities of a party when such deference does not affect vital issues. The failure to mention the persistent and continuing breach of an international obligation and to call upon Pakistan to repair that breach is, however, a grave one because, first, the Security Council is charged with responsibility in this regard and should not fail to promote compliance with such obligations, especially in circumstances in which a breach of these obligations threatens international peace and security; and secondly, the omission strengthens the false notion promoted in the present case that the undertaking of this obligation by Pakistan is a *quid pro quo* for India and Kashmir, and gives it and gives even the tribesmen, satisfaction as to the arrangements for the plebiscite on the question of accession. The two are altogether unconnected, and though, for the purpose of an amicable settlement, we should be willing to agree to both the issues being dealt with in the same resolution, we cannot agree that the one is, or need be, really dependent on the other.

This cold shouldering of our main complaint has hurt us, our Government, and my nation deeply. India brought before the Security Council a plain, simple, straightforward, factually fool-proof issue, and the action that we suggested the Security Council should take was inescapable. The Security Council has not escaped it either, after all this delay. Instead of taking that action earlier, India's complaint was placed in cold storage for

nearly four months, four months of continued bloodshed and economic ruin. And at the end of it all we are exhorted, in appealing language, to agree to a resolution niggardly in its recognition of the merits of the matter, vague and indefinite in the wording of the action to be taken by Pakistan. And in the interpretation of that language the Security Council has gone even further and been apologetic to Pakistan for reminding it of its duty. India cannot, in honour, agree to this treatment of its case.

The attempt, at the sacrifice of reason and justice, to establish for the Security Council a reputation for holding the scales even between the two disputing parties, has led the sponsors of this revised draft resolution to juxtapose India with Pakistan in a context which tars us with the same brush and makes us look like co-accused. Notable illustrations of this are the second paragraph of the preamble of the revised draft resolution, which places us both on a par for doing the "utmost to bring about a cessation of all fighting": sub-paragraph 2(a), which enjoins that our forces should start withdrawal simultaneously with the withdrawal of the tribal and other raiders; paragraph 5, which suggests that the Commission may find it necessary to requisition Pakistan troops for the work of pacification in the State; and paragraph 10(e), which makes it the duty of the Plebiscite Administrator, an officer of the Jammu and Kashmir Government, administering the plebiscite in their name, to address communications direct to the Government of Pakistan—even to its representative with the Commission—bringing to their notice, at his discretion, "any circumstances which may tend, in his opinion, to interfere with the freedom of the plebiscite."

These are not provisions which we can—with any sense of self-respect, or any regard for our dignity as an independent nation and a sovereign Government—honourably accept. The Security Council can hold the scales even between two disputants so long as the dispute is in the stage of investigation. It cannot always do so, without offence to truth and fairness, when it has to take a decision, to suggest measures for action, or even to state its opinion. The transition between these two

stages is a matter of passing from mere courtesy and avoidance of prejudgment to one of justice and fairness on the merits of the case.

I would now proceed to review briefly some of the detailed provisions of the draft resolution presently under consideration. By way of anticipating a possible claim from the other side, I desire to say a few words on the question of accession. In three places in the draft resolution, there occur the words, "whether the State of Jammu and Kashmir is to accede to India or Pakistan." The contention has been advanced that the accession is for a temporary period and a limited purpose, and when that period elapses and that purpose has been served, it ceases to be operative.

We, on our side, repudiate this claim. The accession which took place on 26 October 1947 was both legal and lawful. It has been followed up by India in the discharge of all the obligations that her acceptance of the accession has imposed upon her. She has saved the Jammu and Kashmir State from disintegration. She is now resisting those who are attacking that integrity even today. She is protecting the State's large population from the unfriendly attentions of raiders from outside.

The accession therefore subsists today and will subsist even after the fighting ceases and peace and order have been restored. It will subsist until the plebiscite comes to be taken and the plebiscite goes against India. Until then, Pakistan has no constitutional position in Jammu and Kashmir; and we therefore put it forward as one of our fundamental contentions that, in regard to the arrangements which we make for the plebiscite under international auspices, there is no case for allowing the intervention of Pakistan at any stage. We are willing to give all the guarantees and safeguards which would satisfy an international body like this Security Council, but those safeguards cannot introduce into the State such a position for Pakistan that it could interfere as a matter of right.

After the fighting ceases, the whole of the State will have to come under one Government. By the whole of the State, I include also the area which is now under the control of the rebels and raiders. When the whole of the State thus comes

under one administration—and that, the administration of the State of Jammu and Kashmir—India's garrisons will need to be planted at her outer frontiers on the west of the Jammu and Kashmir State. This planting is necessary for enabling India to discharge her obligations for the defence of the State which she has taken over under the Instrument of Accession.

There are vague implications here and there in the draft resolution that it does not contemplate this development. It is necessary for us to make it perfectly clear that, after the fighting ceases and peace and order are restored, the accession will still continue; India's obligations will still continue, both for defence and the maintenance of law and order, until the plebiscite comes to be taken.

Next, I wish to say a few words on the question of the Interim Government now functioning in the State of Jammu and Kashmir. This is dealt with in paragraph 6 of the draft resolution, which reads as follows:

"The Government of India should undertake to ensure that the Government of the State invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the Ministerial level, while the plebiscite is being prepared and carried out."

The Government of India is unable to agree to this paragraph as it stands. It contemplates a coalition government in which all major political groups will find equitable and full representation, and this representation will be by persons who are to be designated by the political groups themselves.

Coalition governments of this type are all right when there is some major political issue, like war, on which all political parties are agreed as to the action to be taken. Such governments would work mischief if they were brought into existence at a time when the major political issue before the country is one on which those groups violently differ. To think of a coalition government in such circumstances is to invite a paralysis of the Kashmir administration during the period that is in contemplation.

We have had bitter experience in India of the working of such coalition governments. Neither we nor Kashmir would like to repeat that experience in Kashmir. We, however, are prepared to agree, as we have already indicated more than once, that some representation should be found for these other political groups in the Government that is now functioning under a constitution which has been lately revised under a proclamation of His Highness, the Maharajah.

The selection of representatives of other political groups must, both under the constitution under which the State is now working and on reasonable grounds, be left to the Prime Minister of the State, and in order to demonstrate to the Security Council that the present Prime Minister of that State is all-out for implementing the spirit of the undertaking which we have already given in this respect, I should like to read a message which he has sent to me about the policy which he is pursuing, a message which he has given me discretion to use in any manner I like. I think it is appropriate that I should read that message to the Security Council. It is as follows:

"I stand by my assurance that the Ministry should be broad-based. The condition, however, is that only those elements can be taken in the Ministry who are not enemies of the State or in sympathy with raiders whose main objective is to turn this land destitute. I should not be supposed to include in my Ministry persons who directly or indirectly are a party to wholesale destruction of our villages and towns, abduction and rape of women, loot and plunder, which have been going on in the name of the so-called Liberation Movement. This, however, does not mean that I should not include those who have ideological differences with the National Conference, and would like to support accession to Pakistan. As a matter of fact, I have in my Ministry today, Colonel Pir Mohammed Khan, who is a member of the Working Committee of the Muslim Conference, and President of the Anjuman-I-Islam, Jammu."

We are, therefore, strongly opposed to paragraph 6.

I have a few words to say about the provisions relating to the Indian Army. References to it are to be found in paragraphs 2, 5 and 9 of the draft resolution. It was a matter of some surprise to me that Mr. Noel Baker repeatedly referred to the Indian Army in Kashmir as an army of occupation [284th meeting]. That army is there in pursuance of legitimate duties cast upon it by the constitutional position which India holds in Kashmir. To describe it as an army of mere occupation is doing less than justice not only to that Army but to the Government of India, if I may take the liberty of saying so.

There are four different kinds of armed forces referred to in this draft resolution. First, in sub-paragraph 2(a), the Indian Army is referred to. Paragraph 3 refers to State forces. Paragraph 4 refers to personnel locally recruited, and paragraph 5 refers to the possibility of the Pakistan Army being allowed to take a hand in this affair.

With regard to the Indian Army, the case of India is that after the fighting ceases, the strength of its forces in Kashmir necessarily will be reduced. But the reduction should not carry the strength of that Army below the minimum required not only for the maintenance of law and order, as provided in this draft resolution, but also for defence against external aggression.

In the draft resolution before us, this constitutes one of the major deteriorations from the draft resolution for which Mr. Tsiang made himself responsible on 18 March last. A great deal was said by him on 17 April [284th meeting] to reconcile us to this deterioration.

His argument was, in effect, that if the arrangements provided in the draft resolution are carried out, the chances of external aggression will become nil; the need for the Indian Army operating in Kashmir for purposes of defence against that aggression will not be felt.

He proceeded to say that even if such a need arose, there was, I believe under Article 51 of the Charter, an indefeasible right for individual and collective self-defence conceded to every Member of the United Nations. Did he suggest that, under those circumstances, if there was such external aggression, the march into the State for the purpose of

preventing it? If so, why is it that the draft resolution did not recognize that fact in so many words, when it took the trouble of mentioning the question of maintenance of law and order? Assuming that that were possible, would it not be more in accord with the obligations of the federal Government in a frontier unit that it should maintain on the borders of that unit portions of the army sufficient in strength for repelling possible invasions of that territory? Are we asking for anything illegitimate or unreasonable when we say that the minimum strength should be sufficient, not only for law and order, but for defence also? We shall not be willing to abdicate our paramount duty of defending Jammu and Kashmir so long as the accession lasts. It is on this ground that, in regard to sub-paragraph 2(a), we find ourselves unable to give our agreement.

Then, there are other parts of this paragraph which are somewhat difficult to understand. It speaks of "base areas" and "forward areas". "Forward" with reference to what? It will be a matter for conflicting interpretations later on. I rather think that that section of the paragraph which relates to "base" and "forward" areas has been lifted out of some other scheme which was more comprehensive than the one which has found expression in the draft resolution. That is why it looks so incongruous.

With regard to the State forces, the relevant paragraph is number 3. It says:

"The Government of India should agree that until such time as the plebiscite administration referred to below finds it necessary to exercise the powers of direction and supervision over the State forces and police provided for in paragraph 8 they will be held in areas to be agreed upon with the Plebiscite Administrator."

This paragraph refers not only to the State forces but to the police as well, and it refers to a period prior to the Plebiscite Administration's feeling the need for directing and supervising these forces and the police. It is somewhat difficult for an administrator of some experience like myself to understand why this is necessary during the period prior to the plebiscite. The police

are referred to. The police are all over the State; they are engaged every day in the maintenance of law and order. Why should the Plebiscite Administrator prior to the plebiscite have the right to place a veto upon the disposition of the police in the interests of the maintenance of law and order? Apart from this, I should like to point out to the Security Council that both the State forces and police are governed essentially by discipline. If discipline has to be enforced, there must be unity of control. You cannot divide control, direction, or supervision, for that matter, in the case of disciplinary personnel of this type, between two sets of authorities.

The suggestion in paragraph 3, to my mind, is an administrative enormity. Then, paragraph 4 speaks of "...personnel recruited locally..." I take it that this refers to additional police that may be required. There is no harm in recruiting from local personnel whatever additional police may be required, but the mischief is in paragraph 5 which says:

"If these local forces..."—I take it these words refer to the forces raised under paragraph 4—"should be found to be inadequate, the Commission, subject to the agreement of both the Government of India and the Government of Pakistan, should arrange for the use of such forces of either Dominion as it deems effective for the purpose of pacification."

Pacification is an act having reference to local citizens of Kashmir. The task of pacification is essentially one which should be shouldered by the Government of Jammu and Kashmir. It has its police at its disposal; it has its forces at its disposal. If these are insufficient, sub-paragraph 2(a) permits the retention of such numbers of the Indian armed forces as may be necessary for the maintenance of law and order. What need is there to provide for the requisition of additional outside forces for the purpose of pacification? It is a roundabout method of trying to introduce Pakistan forces into the Jammu and Kashmir State. The introduction of those forces is fraught with incalculable risk. India can never agree to paragraph 5 as it stands.

I should like to refer to the paragraphs regarding the Plebiscite Administration. Our objections to this part of the resolution concern paragraph 8, which vests the direction and supervision of State forces and police in the Plebiscite Administrator, even though "for that purpose only"; sub-paragraph 10(c), which gives the Plebiscite Administrator the right to ask for the creation of special magistrates and to nominate persons to those offices; and last, but by no means least, sub-paragraph 10(e), which permits the Plebiscite Administrator to communicate with the Government of Pakistan or with the representative of that Government with the Commission. The Plebiscite Administrator is, as I have said, an officer of the State, and it is against all ideas of both political substance and administrative propriety that such an officer should be given the liberty of communicating directly with an outside Government on a matter for which his own Government is the sole responsible authority.

I do not wish to go further into the details of the resolution. I would urge only that India's conduct in this case has been absolutely correct from beginning to end. It has been correct legally; it has been correct constitutionally; it has been correct, as well, in high-principled, ethical statesmanship. As the draft resolution now stands, India definitely has to express her strong opposition to it. If, however, the draft resolution is carried, in spite of our objections and opposition, it will be for my Government to decide its course of action in the circumstances so created. It will be for my Government to decide its course of action regarding the stoppage of the fighting in Kashmir as soon as possible, and the holding of a plebiscite thereafter.

The moving and eloquent appeal which the representative of the United Kingdom made on 17 April [284th meeting] caused a temporary stir in my emotions. The procedural flexibilities to which the representative of the United States drew our attention at the same meeting gave rise to certain hesitations in my mind. I have, however, since had the opportunity to read and study both speeches in cold type. That study has not, I regret to say, inclined me toward any revision of my attitude to the draft resolution before us.

I have spoken with some bitterness, but not in anger. However, I wish it to go into the record on behalf of the great

peace-loving nation which I have the honour to represent, that the non-acceptance of this unsatisfactory draft resolution—if that is the decision of my Government after full consideration—does not necessarily mean war. We shall persevere and explore all other possible means of avoiding a war with Pakistan unless and until it becomes inevitable. In the case of hundreds of other disputes we have reached a pacific settlement with Pakistan without coming to the Security Council. The possibilities of an honourable, pacific settlement are not exhausted by the methods and measures suggested in this draft resolution. When, after this draft resolution is passed by the Security Council, both India and Pakistan go back home, the wiser for our experience here, it may be that other methods and measures for a pacific settlement might be discovered which would prove acceptable to us.

We can only hope that our search for such other pacific methods will not prove to be barren and that we shall not be driven irresistibly to the arbitrament of armed conflict between the two Dominions.

108. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 285 held on 19 April 1948

As I listened to the very able exposition that Mr. Gopalaswami Ayyangar has just concluded making to the Security Council, I wished that I possessed in a similar degree the gift of placing before the Council matters, palatable and unpalatable, in such eloquent, and particularly such polished, language. I apologize in advance for the fact that my approach to the consideration of the resolution now before the Security Council will be more direct than his, and may, I fear, also be more ruggedly expressed.

The fundamental question before the Security Council has been this: with respect to the Kashmir dispute, the parties are agreed that the question of the accession of Kashmir to India or Pakistan is to be determined by means of a free and impartial plebiscite. The problem with which the members of the Council have been struggling during the past few weeks is

to determine and propound the essential conditions for such a plebiscite.

I freely and sincerely associate myself with the opening words of Mr. Gopalaswami Ayyangar, in which he has paid a generous and handsome tribute to the labours of the Security Council as a whole, and more particularly to the labours of the President for the current month and the Presidents of the Security Council since the month of January, and to the other representatives who have been associated with them in finding a solution to that question. The delegation of Pakistan, as much as the delegation of India, fully appreciates, and is duly grateful for, the labour and care that have been devoted by the Security Council to this question. Various aspects of this problem were propounded to the Security Council at great length both in the meetings of the Council and in the discussions that took place with the Presidents and their associates during several months.

As far as I am concerned, I was so much indulged in that respect by the Security Council that I fear that, on some occasions, I expressed myself at wearisome length. Therefore, when the Council found itself in a position to be able to propound its own views on this matter in respect of the lines on which its settlement should depend, which appeared to it to be fair and proper, there could have been no feeling in the minds of the members of the Security Council that they had not been supplied with sufficient data or that light had not been thrown to their satisfaction on the various aspects of this problem.

At a certain stage, the Security Council gave expression to the principles on which the settlement of this question should be based, and perhaps it might be of some worth and advantage, even at this late stage, to remind members of the Security Council of the view that they took on the fundamentals of this question and to request them once more to consider whether or not, in its more important aspects, the draft resolution now before the Security Council embodies those principles. It is true that parties that are contesting against each other will always be apt, to take partial views on the question. I am not, therefore, inviting the members of the Security Council to consider,

as I fear the representative of India has done, to what extent they have or have not complied with his request or my request. That is beside the point.

At this stage, after the debate on this question which has continued for more than three months, I venture to invite the Security Council to consider whether the solution that the Council has finally embodied in this draft resolution satisfies the tests which those very members who were parties to the resolution laid down, themselves, as crucial to the matter. That may surely be regarded as an impartial approach to the matter. In this connexion I would first invite the attention of the Security Council to certain very weighty and valuable observations made by the representative of the United States on 24 January 1948.

The representative said:

"...with respect to the media and methods of creating those conditions, arrange an interim government that is recognized as free from the smell of brimstone, as nearly impartial and perfect as two great countries like India and Pakistan can make it, in which the rest of the world will have confidence as being fair [235th meeting]."

That is one of the passages. At the same meeting the representative of Canada said:

"...so that a basis of agreement may be reached to terminate the fighting, to afford security to the peoples of Jammu and Kashmir under some authority which will be recognized by everyone concerned as strictly impartial..."

At the same meeting the representative of France stated:

"I feel that three conditions are required in connexion with this plebiscite. In the first place, all foreign troops must be removed from Kashmir. Secondly, all original inhabitants of Kashmir, both Muslim and Hindu, must be allowed to return to their places of residence there. Thirdly, a free administration must be set up in Kashmir which will not

exercise any pressure on the population and will thus ensure the fairness of the plebiscite."

After the representative of France had spoken, the representative of Syria added to what he had said by stating that not only should foreign troops be removed, but the tribesmen also must withdraw.

The representative of France further explained his point of view in these words:

"From my viewpoint, the word 'troops' means not only regular troops but also irregular troops, that is, both troops under the command of a State authority and tribal forces not recognizing allegiance to any State."

Obviously the representative of France meant a Government and not a State. There is a distinction in India between a Princely State and the Dominion of India or the Dominion of Pakistan.

Later, on 29 January, the representative of the United States of America said:

"The other question of a fair plebiscite will also naturally involve a consideration of the form and substance of the administration of the Government leading up to and during the period of the plebiscite. I do not desire to say any more about this, because I do not want to get into a discussion of detail (237th meeting)."

My esteemed friend, the representative of the United Kingdom, stated on the same day:

"Ever since the first speeches were made on this subject in India and Pakistan months ago, I have been considering what significance could be attached to the phrase 'under the auspices of the United Nations'. The more I think about it, the more convinced I am that that phrase must imply not only that the plebiscite must be fair in itself, but that it must seem fair to all concerned; not only that in fact justice shall

be assured, as I am certain it would be assured by the sole action of any one Government at this table if it had a free hand, but that it must seem fair to both the Government of India and the Government of Pakistan, to all the members of the Security Council, to all the Members of the United Nations and, I add—and I think this is the crucial point in stopping the fighting, as I have said before—that it must seem fair to the combatants, both Muslim and non-Muslim, in Kashmir itself."

On 4 February, the representative of the United States of America said:

"How is it possible to induce the tribesmen to retire from Jammu and Kashmir without warfare and without driving them out? That is the only way it can be done, unless the tribesmen are satisfied that there is to be a fair plebiscite assured through an interim government that is in fact, and that has the appearance of being, non-partisan. Only by that method could one hope to have that retirement on a peaceful basis [240th meeting]."

The representative of the United States went on to state:

"The interim government need not exist for a long time. It need exist for only such time as is necessary to set up the machinery for the holding of a fair plebiscite. After the plebiscite, what then? That interim government will be *functus officio*; it will have completed its job and it will have no more authority. There are many such institutions in government and they are especially important in international affairs. Of course, we would not be interested in this matter if it were purely a domestic affair."

The next day, the representative of the United Kingdom stated:

"What the Security Council does must seem fair to these two parties. I must also seem fair to the Government of

Pakistan, to the insurgents, to the tribesmen, to the Government of India, to the other inhabitants of Jammu and Kashmir, and to the outside world. That is why I arrived at the same conclusion as the other members of the Security Council who stated that impartial, interim administrative arrangements must be made [241st meeting]."

On 5 February, the President, as representative of Canada, submitted to the Security Council what was first described as a private memorandum, and which subsequently, at the request of the representative of Colombia, became a draft resolution. I shall draw attention to only two paragraphs of that resolution, as representing the views of the President on this question.

Paragraph D states:

"That an interim administration which will command the full confidence and respect of the people of the Jammu and Kashmir State is essential to the attainment of the aims and purposes of this resolution [document S/671]."

In paragraph 2 of this draft resolution, it is stated:

"The Security Council recommends to the Government of Pakistan to use all their efforts to persuade the tribesmen and all trespassers who have invaded the territory of Jammu and Kashmir State to withdraw therefrom.

"In this connexion, the Commission shall seek to ensure co-operation between the military forces of India and Pakistan with a view to bringing about an immediate cessation of fighting in the Jammu and Kashmir State and to maintain order and security until the question of accession shall have been determined by the plebiscite."

In other words, he made two recommendations. The first was that an impartial interim administration in Jammu and Kashmir was essential, and the second that the practical method of securing both the withdrawal of the tribesmen and the restoration and maintenance of law and order during the period

while the plebiscite was being organized and held was for the Commission to seek the co-operation of the military forces of India and Pakistan. These are the two main matters on which difference persists between the representative of the Government of India and the representative of the Government of Pakistan.

On 10 February, the representative of Canada presented to the Security Council, of which he was then the President, a draft resolution dated 6 February. He explained that the draft proposals which had been submitted to the parties

"...represented an effort, pursuant to the mandate of the Security Council, to produce a comprehensive framework of principles based upon suggestions made by members of the Security Council, within which the discussion of detailed specific proposals might usefully proceed [243rd meeting]."

That is to say, the draft resolution was not the work of the representative of Canada alone—as President of the Security Council for the month of February—or of the representatives of Canada and of Belgium alone, but it represented views expressed by members of the Security Council during meetings of that body.

I wish now to draw the attention of the Security Council to certain extracts from this other resolution [document S/667] which bear upon the question which is now mainly the one which divides the two parties. It says:

- "(a) Acts of violence and hostility must end;
- "(b) The withdrawal and continued exclusion of all irregular forces and armed individuals who have entered Jammu and Kashmir from outside must be brought about, each party using to that end all the influence at its disposal;
- "(c) Regular armed forces, in aid of the establishment and maintenance of order must be made available. In this connexion the Governments should seek to ensure cooperation between their military forces to establish order and security until the question of accession shall have been determined by the plebiscite;

- "(d) Regular armed forces must be withdrawn as soon as the re-establishment of law and order permits"; and
- "(f) The conditions necessary for a free and fair plebiscite on the question of whether the State of Jammu and Kashmir shall accede to India or to Pakistan, including an interim administration which will command the confidence and respect of the people of the State of Jammu and Kashmir, must be established."

Both the President then in office, General McNaughton, and the President for the previous month, Mr. van Langenhove, who had acted as Rapporteur, requested members of the Security Council to say whether the articles embodied in this resolution did or did not represent the views to which they had hitherto given expression.

The representative of Argentina, who now has the honour to be President of the special session of the General Assembly, stated on 10 February:

"I think that this draft resolution does sum up the opinions expressed by the members of the Security Council in our debate on this question, and I wish to give my approval to it."

He went on to say, later:

"In summary, I approve the draft resolution submitted by the President, which was drafted in consultation with Mr. van Langenhove, the representative of Belgium [243rd meeting]."

The representative of France stated, on the same day:

"Like the representative of Argentina, I wish to thank the President and the Rapporteur for the work that they have done in order to bring together the various views which have been expressed here in this connexion and to facilitate our study of this question."

Other representatives expressed themselves as follows:

The representative of Syria:

"It is in full conformity and harmony with the views expressed by the members of the Security Council during the last meetings."

The representative of the United Kingdom:

"The representatives of Argentina, Syria, and, if I understood him, France, have answered this question affirmatively. They think that this draft resolution does sum up the views of the Security Council as they have been expressed in our debates hitherto; that we ought now to intimate to the President and the Rapporteur our gratitude for their work, and our approval of what they have done; and that, in the phrase of the representative of Argentina, we ought to consider that such a resolution would be a useful basis for further discussion."

Later in the same meeting, the representative of the United Kingdom was pleased to state:

"I have come to the conclusion that while, of course, the statement of the President is not more than an outline, nevertheless it is a faithful translation into broad principles of the way in which the Security Council thinks—that we ought to proceed towards a settlement of the difficult, dangerous and immensely important question of Kashmir."

The representative of the United States:

"Our view, as indicated thus far by trends of opinion, must be clear. I think that there is no confusion at all about the fact that the trend of our opinion, which is not yet in the form of a resolution, is towards a pacific settlement of this matter—an arrangement with terms of such character that they command the respect and the confidence of the parties to the dispute. As I have said, there seems to be no other way of bringing peace to that part of the world than this specific method of agreement between the parties, which

involves such management and such control of the plebiscite—to which both parties have assented—as to ensure that everyone interested will know that it is free, fair and just.”

Later, he added:

“I want to say that I fear my own position here has been misunderstood. When I spoke about an interim government, I only envisaged that much control of the machinery of government as is necessary for the limited time and purpose of holding a fair plebiscite...My own position does not relate to the future government. I can think of many ways in which that situation might be handled without the least derogation of the present Interim Government’s life or powers, except for that special purpose; and that is a purpose which I believe both parties desire and which all the world would be glad to see pursued.”

On 11 February, the representative of the United Kingdom said:

“Our problem in the Security Council is to make all parties, including Pakistan and the Kashmiris now fighting against the Indian Army—whom the Indian representative admitted to be parties the other day—regard the plebiscite as fair [244th meeting].”

On the same day the representative of Argentina presented his views to the Security Council under nine heads, of which I shall read the third and fifth, which are as follows:

“...third, that Kashmir is not a territory of India—no Power will either propose or accept a plebiscite to surrender a part of its territory, as India’s Government did;”

“...fifth, that the cause of the present war is the rebellion of the Kashmir people against their ruler, and the only remedy is to look to the will of these people [245th meeting].”

That concluded the first part of the deliberations of the Security Council, the part which was devoted to determining and propounding not what either party thought but what the Security Council thought were the essential conditions for the holding of a fair and impartial plebiscite. And, if one might so put it, up to then, one could almost see the process that was working behind the discussions in the Security Council and behind the resolutions that from time to time took shape.

At that stage, the Indian delegation felt it necessary to go back to India to hold personal consultations with its Government. Thereupon, if one might be forgiven for saying so, the matter went underground; that is to say, one was no longer conscious of what was happening. One had to depend upon scraps of information that appeared in the Press from time to time, to which one did not know how much value to attach. The Security Council will forgive me if I give expression to the feeling that subsequent events have shown that these indications in the Press were not so unfounded as one had, in one's innocence and simplicity, imagined at the time. They indeed gave a very accurate reflection of what was going on behind the scenes. If that is so, it would appear that at least, some of the members of the Security Council seemed to have realized during that interval, with a sense of sharp surprise, that the Security Council had for once let itself slip into a position of fairness and impartiality between two contending parties which might help to restore to the United Nations a fraction of the prestige that it was so rapidly losing in the eyes of the world. They therefore beat a hasty retreat from a position so unfamiliar and embarrassing and fraught with the possibility of such undesired consequences.

The first positive indications of this change came to my notice on 3 March 1948, communicated to me from a quarter that need not be further particularized. They outlined quite clearly the shape of the draft resolution now before the Security Council.

A significant summary appeared in the Indian Press on 8 March 1948. At this stage, I draw the attention of the Security

Council to a clipping from *The Statesman* of New Delhi of 8 March 1948, in which the following appeared:

"Lake Success, March 7—A new approach to the Kashmir problem will be tried when the Security Council resumes its debate on Kashmir tomorrow, it was reliably learned today. Although the exact nature of the new approach is not revealed, well-informed sources predict that the trend of thought would be along the following lines:

"The Council will acknowledge that there was some justification in the Indian complaint that Kashmir raiders were obtaining aid in Pakistan, though not necessarily by direct Government assistance. On this point, the Council was considered likely to request the Pakistan Government to use its best efforts to stop alleged illegal activity in its territory or by its nationals.

"The disputed problem of an interim administration for Kashmir during the plebiscite might, according to the same sources, be solved by broadening the present administration under Sheikh Abdullah on a wider political basis.

"On the question of Indian troops in Kashmir, it was understood that the new line of the Council's approach might be to consent to their presence but, at the same time, to ensure that their activities were of a purely military character and did not include police duties.

"It was believed that there was no crystallized resolution in view and that discussion in the Council might produce substantial changes."

That was a remarkably accurate summary of what has subsequently come to the surface.

The draft resolution is now before the Security Council in its final shape. As the representative of China explained, his first draft resolution of 18 March 1948 [document S/699] underwent certain modifications, and it emerged in the shape of his draft resolution of 30 March 1948. The draft resolution now before the Security Council is, with some slight modifications, substantially the draft resolution of 30 March 1948.

This draft resolution, as was bound to happen, in many respects takes a view, makes a recommendation or suggests a course of action that may not, in its entirety, or in some aspects, be acceptable to one party or the other. That surely cannot be a grievance against a resolution which seeks to resolve a dispute in which the parties have held the points of view that the Government of India and the Government of Pakistan hold with regard to Kashmir.

In this regard, there are two questions to which I most respectfully wish to draw the attention of the Security Council. In the first place, to what extent is this resolution based upon the principles which the members of the Security Council themselves have said are the only principles upon which a fair settlement of this problem can be arrived at? In the second place, getting away from that, on its own merits, apart from any discussions that may have preceded this resolution, to what extent does it fulfil that very desirable purpose? Again I venture to submit that nobody will pretend that with regard to the two main matters in dispute—the withdrawal of the armed forces of India and the setting up of an impartial administration—this resolution proceeds on the principles which the Security Council itself thought were essential and were the foundation of the whole scheme.

Those two basic principles have been materially, if not altogether, departed from. But as I have said, it is due to the eminence, ability, experience, and the standing of the authors of this draft resolution, and to the labours that they have devoted to the framing of it, as they viewed it, with the sole desire and single-minded purpose of building a structure which might help peacefully to resolve this dispute—it is due to all these factors that the provisions of the draft resolution should be examined with care on their merits to see how far it is likely to achieve the purpose for which it is designed.

To begin with, it will strike anyone who studies the draft resolution, even cursorily, that in its main aspects it is all one-sided. It has been contended, on behalf of the Indian delegation, that it is not one-sided enough. But then, one appreciates their position. Their position is that the whole trouble in

Kashmir should be resolved on the basis that the accession of the State of Jammu and Kashmir to India is legal and constitutional; that the fighting which is going on in Kashmir has no justification or validity; that it is an attempt by outsiders to disturb the peace, order and tranquillity of the State; that Pakistan ought even to undertake military action at its own borders and frontiers to stop the tribesmen from coming into Kashmir, and that once that objective has been achieved, the military occupation of the whole of the State of Jammu and Kashmir and the civil administration of the State of Jammu and Kashmir should be taken over by the Government of India; the Government of India would then, in consultation with the Security Council and under its auspices, carry out a plebiscite.

Of course, if that is the correct approach to the problem, the delegation of India is right in stating that Pakistan has nothing to do with the matter except to arrange for the withdrawal of the tribesmen by persuasion or by such other action as may be necessary, and to ensure that their infiltration back into the State is out of the question, and that the rest must be left to the Government of India and to the Security Council.

But of course, not only is that not the view of the Pakistan Government—which, after all, would be the view of one of the parties to the dispute—but throughout these discussions it has been made quite clear that that is not the view of the Security Council.

The essence of the matter is this—and there is no escape from it—the question of the accession of Kashmir to India or to Pakistan is a question which is equally vital to both Dominions, and they are equally vitally interested in its result. That being so, the position cannot be equitably maintained that, by virtue of what happened on 26 and 27 October, the legality of which has been from the very beginning persistently questioned by Pakistan, India alone is concerned with this matter.

If both Dominions are vitally interested and if fair conditions have to be brought about in Kashmir—which should not result in any prejudice to either party's position—and if, from that

point of view, the draft resolution is studied, it will be found to be all too one-sided.

One test that I venture to submit is the following: if what Pakistan submits should be brought about were acceded to, would it weigh the plebiscite in favour of Pakistan in any respect? If what is insisted upon on behalf of India were accepted, agreed to and persisted in, would it or would it not weigh the plebiscite in favour of India? That, I venture to submit, is a fair enough test.

Would the withdrawal of Indian troops from Kashmir—provided law and order were to be re-established and could be maintained with the help of local arrangements or with the help of neutral military troops—put any pressure or have any chance to put pressure upon any of the voters inside Kashmir to vote for accession to Pakistan? Would it stop anyone who wanted to vote for accession to India from voting in that way? Obviously not.

Would the setting up of an impartial administration in Kashmir put pressure on anyone to vote for accession to Pakistan? Would it stop anyone from voting for accession to India if he wanted to do so?

These two matters are the crux of the whole question. The position of Pakistan with regard to them is to bring about a fair and impartial state of affairs in which no one would be influenced in one direction or the other.

The continued presence of the armed forces of India in the State of Jammu and Kashmir would either, under the safeguards contained in the draft resolution, not affect the plebiscite, or in spite of these safeguards, might affect the freedom of the plebiscite.

In the first case, no harm is done. In the second case, in which direction would it affect the plebiscite? Obviously it would be in favour of India, and therefore the arrangement would not be fair; it would not be impartial. The continuation of Sheikh Abdullah at the head of the administration might, to some extent, be rendered nugatory by the fair interpretation of paragraph 6 of the draft resolution, and its faithful enforcement. But the continuation of Sheikh Abdullah at the head of the

Kashmir Government is, in our view, bound to influence heavily the fairness and impartiality of the plebiscite. If our fear is justified, in which direction would it influence the plebiscite? In favour of India.

Can anyone contend that the setting up of a truly impartial administration would force or influence anyone to vote in favour of Pakistan who would otherwise not wish to vote that way, or would it stop anyone from voting for India who desired to vote for India?

My contention is that on these two central crucial matters on which differences still persist, Pakistan is asking only for an impartial field, from which all suspicion of favouritism from one side or the other will be removed.

The things upon which India insists, whatever may be the reason advanced for them—constitutional, legal, the relationship between the State and the Federation—are among those which, in our view, would work prejudicially against Pakistan and in favour of India. At the very best it may be hoped that they would not, but if they do at all, those factors will influence the plebiscite in only one direction; there is no possibility of their influencing it in the other.

It is from this point of view that I desire the Security Council to approach the consideration of the draft resolution, and to consider whether it effectively meets the situation. It obviously does not proceed along the lines which the Security Council itself earlier propounded. That much is not only conceded but has been stressed by the representative of India, so it is not a matter of dispute.

Last Saturday afternoon at the 284th meeting, in a very powerful and moving speech, the representative of China explained the safeguards embodied in the resolution. His explanation was fair; I am not disputing it, so far as it went. But, in the first place, he himself said that in his experience—and I am afraid that I have not even a fraction of that experience—no international plebiscite had been hedged around by so many safeguards as this proposed plebiscite. Why is that? Why has the Security Council been at pains to devise so many safeguards? It is because the Security Council has moved away

from the position that the continued presence of the armed forces of India in the State of Kashmir during the plebiscite and the continuation of the administration of Sheikh Abdullah would guarantee a fair and impartial plebiscite. It is an admission that Pakistan's apprehensions on that score are justified. That is why recourse is being had to safeguards. The purpose is to minimize as far as possible—I recognize that—the effect of those two factors.

But why merely minimize as far as possible? This is a matter which has been in dispute between the two Dominions from the very beginning. On 8 November, the Prime Minister of India, in that telegram which I have often quoted to the Security Council and from which I need not read again this afternoon, made this declaration: that, as soon as law and order had been restored, Indian troops would be withdrawn from Kashmir.

It has subsequently been stated here by Mr. Gopalaswami Ayyangar: "Yes, but conditions have changed." In what respect? On 8 November, the State of Kashmir was in turmoil. That turmoil, it is true, has more or less continued. But what new factor has arisen which today necessitates that, after fighting has ceased and law and order have been restored, the troops of the Government of India should remain?

The representative of India says: "Oh, it is because we are responsible for the defence of Kashmir under the terms of accession." Were they not responsible for the defence of Kashmir on 8 November under the terms of accession? Has that liability, that obligation, that duty, been imposed upon the Government of India since that time? They were quite conscious of their obligations under the instrument of accession when they made that offer, and today that offer is not being adhered to.

It was stated in that very telegram that Mr. Jinnah, the Governor-General of Pakistan, had pointed out—to Lord Mountbatten that there was no chance of holding a fair plebiscite under the present administration of Kashmir. For the purposes of the plebiscite, that point was not disputed. The Prime Minister of India may have felt that too much stress was

being laid upon that point, but he did not attempt to argue that it was not valid. His reply was that the remedy was to hold the plebiscite under the authority of the United Nations. What the authority of the United Nations means has been interpreted by the representative of the United Kingdom before the Security Council, and I have read out his interpretation. We are asking for no more; throughout, we have asked for no more. What we are asking for would establish the absolute impartiality and fairness of the plebiscite.

The Government of India has insisted upon its position sometimes on the basis of the sovereignty of the Maharajahs—I suppose that is the result of the treatment accorded to them by other Indian States, which I have brought to the attention of the Security Council, and one has not heard much of that argument lately—and sometimes on the basis of the relationship between the Federation and the States. Whatever the reason may be, however, what they are asking for is this: to hold the plebiscite while the whole of the State is under the military occupation of the armed forces of the Government of India and while the administration is under one of their nominees.

So far as Sheikh Abdullah is concerned, he appeared before the Security Council, which was able to make an estimate as to how far that gentleman was impartial in this question. Since then, he has made many other pronouncements after returning to India and after the Maharajah proceeded to appoint him Prime Minister. I shall not weary the Security Council with too many citations, but I should like to draw the attention of the Security Council to what was said by *The Statesman* of New Delhi in its issue of 25 March. Under the heading "Rash Remarks," this editorial comment was made:

"Reports from impartial sources reaching this sub-continent suggest that Sheikh Abdullah, during the Indian delegation's first New York stay to argue their case about Kashmir, proved rather an embarrassment to his colleagues. His remarks were sometimes noticeably injudicious....

"Apparently undeterred, however, the Sheikh, back in this country, has continued to make statements which, if reported to New York, may embarrass his colleagues anew. So

unqualified is the anti-Pakistan sentiment revealed, and so extreme the language clothing it, that unbiased folk, reading what he has said—and it has been said often and at length—must wonder more deeply whether a plebiscite in Kashmir under his administration could be fairly run."

That is the statement of an impartial newspaper issued from New Delhi, the capital of the Government of India, a newspaper known for not taking extreme views. What Sheikh Abdullah has done, since he became Prime Minister, to show his impartiality in this matter may be gathered, to some extent, from what appeared in *The Times* of London of 13 April 1948. It says, in the course of an article:

"The local administration..."—all new men—"chosen by Sheikh Abdullah are vociferously anti-Pakistan and the people, by nature excitable and easily malleable, have reacted accordingly."

Later on, the same article says:

"Meanwhile, Sheikh Abdullah's administration has entrenched itself. All government officials are now National Conference Party men. The Party, naturally, calls them the chosen representatives of the people, and they have found that power is both sweet and profitable."

They are not the only ones who have found that out. That, again, is the conclusion of the special correspondent of *The Times*. We have received information, in the form of a telegram, setting out a statement of Chaudhri Ghulam Abbas who is president of the Muslim Conference and has recently been released from gaol, saying:

"Since his ascendancy to power, Sheikh Abdullah has clapped into jail about three thousand Muslim Conference workers. Almost all gazetted officers..."—this refers to the civil service; it does not refer to the military—"under state service, suspected of pro-Pakistan leanings, have either been jailed or discharged from the service. The administration has banned listening to Radio Pakistan."

I am certain that this kind of measure brings to the minds of the representatives on the Security Council comparable pictures of what happened in certain countries of Europe some years ago. It is suggested that this gentleman at the head of the Kashmir Government will magnanimously invite some representation in his Ministry from other political groups, in order to fulfil the conditions laid down in paragraph 6 of the revised draft resolution under consideration by the Security Council. It has even been said that Sheikh Abdullah has authorized Mr. Gopalaswami Ayyangar, if he so chooses, to reveal to the Security Council that Sheikh Abdullah has already chosen a colleague from among the ranks of the Muslim Conference.

Let me invite the attention of the Security Council, first, to the policy of Sheikh Abdullah in these matters. It is reported in *The Hindustan Times*, a semi-official organ of the Government of India, published from New Delhi, in its issue of 7 March 1948—therefore, the authority of the statement is beyond doubt—under the heading “Kashmir Will Live and Die with India,” in an article on a statement by Sheikh Abdullah, that:

“The Kashmir National Conference was not only completely non-communal, but also did not suffer from ideological differences. Socialists, Communists, Nationalists and others, all work together, no single group dominating its policy. In his cabinet too, he proposed to include people of all parties and communities, but they would be chosen according to only one criterion, their loyalty to the National Conference and their country.”

Sheikh Abdullah says:

“I shall take them from other parties but they must be loyal to my party.”

Later on, the article goes on to say:

“There was no question of releasing all Muslim Conference workers. Those who were likely to act as the fifth columnists

of a foreign State would remain in gaol, but if his Government was satisfied that any one of them would remain loyal to his own country, he would be let out."

No explanation or comment is necessary. The meaning is perfectly obvious. The foreign state is Pakistan. He who is in favour of accession to Pakistan will remain in gaol. He who will give assurance that he will work for accession to India will be let out. A claim has been made that Sheikh Abdullah has already very generously taken one gentleman from the Muslim Conference into his cabinet. In the first place, if he has done so, it was subject to that condition. That gentleman must have given assurances of his loyalty to the National Conference. Therefore, he says he is to be a Muslim Conference member, but it so happens that this telegram from Chaudhri Ghulam Abbas, to which I have already invited reference, says:

"The gentleman in question had been expelled from the Muslim Conference three years ago."

True, at one time he was a member of the Muslim Conference; and if that makes him a representative of the Muslim Conference, much more so is Sheikh Abdullah himself a representative of the Muslim Conference, because he started his political career in Kashmir as a member of the Muslim Conference. The only time that he was ever elected to the legislature of Kashmir was on the Muslim Conference ticket, from which he has subsequently departed, but that does not make him today a representative of the Muslim Conference. However, that is the kind of representation that he proposes to give and has given to other parties.

I shall now draw the attention of the Security Council to certain features of the revised draft resolution. What is Pakistan required to do under this draft resolution? In this connexion, I shall refer to sub-paragraph 1 (b), although this logically should have been sub-paragraph 1 (a). It was at one time sub-paragraph 1 (a), but it has subsequently again become sub-paragraph 1 (b), although it obviously comes first. This sub-paragraph reads as follows:

"To make known to all concerned that the measures indicated in this and the following paragraphs provide full freedom to all subjects of the State, regardless of creed, caste, or party, to express their views and to vote on the question of the accession of the State, and that therefore they should co-operate in the maintenance of peace and order."

If it had been to make known to all concerned the measures indicated herein, that would be easy and that would be all right and the people could themselves then judge, from the language of the proposals, from the scheme as a whole, and from the manner in which it was being put into force, whether it did or did not provide full freedom to everyone to do this, that, and the other.

I quite realize that the Pakistan Government, as a party to this dispute, must go further, is bound to go further, and should undertake this obligation if it were true and honest: to state to those people that the following paragraphs provide full freedom to all subjects of the State, regardless of this, that, and the other. If the Pakistan Government is convinced that the articles amount to what they claim, the Government will certainly undertake that obligation, not only discharging it to the full, but doing whatever is possible to bring about the maintenance of peace and order. But so long as it is not satisfied that the following paragraphs provide full freedom to all subjects of the State—this, that and the other—then it cannot surely in honesty be expected to give that assurance to the people who are fighting.

Sub-paragraph 1 (a) of the revised draft resolution reads as follows:

"To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purposes of fighting..."

The Security Council has agreed that the only thing that could persuade these people even to agree to the withdrawal

would be an assurance which would satisfy them on the matters set out in sub-paragraph 1(b). If it did not satisfy them, then it would be no use for Pakistan to make any effort in the direction of sub-paragraph 1(a).

Let us assume for one moment that the rest of the resolution was satisfactory, that the rest of the resolution did embody proposals which would give full freedom to everyone concerned with regard to the plebiscite and other matters. Even then, how could Pakistan in practice discharge this obligation that is laid down in sub-paragraph 1(a) without some further authority being invested in Pakistan? I shall immediately proceed to explain what I mean.

There are among the representatives sitting in the Security Council eminent men with direct and others with indirect experience of military situations. Surely, they are able to appreciate fully the situation that is required to be dealt with in Kashmir where fighting is taking place, so far as the cessation of the fighting and the withdrawal of the tribesmen are concerned.

In the first place, it is absolutely essential for the purpose of bringing about a stoppage of the fighting—as set out in the preamble “that India and Pakistan should do their utmost to bring about a cessation of all fighting...”—it is absolutely essential in actual practice that people from the two sides meet in order to settle arrangements for the cessation of fighting; at what time the fighting shall stop, and when, and how the withdrawal is to be arranged.

The people who have been fighting are not to be shot down; they are not to be victimized; they must be permitted to proceed peacefully back to their homes—those who are Kashmir nationals—and those who do not belong there, out of the State; and then, when they are withdrawing, they shall not commit any act of violence or persecution of the population.

Thus, obviously, this matter requires two aspects to be dealt with: first, some machinery—not that I mean that this machinery is to be set up in this resolution, but it must be contemplated—which will bring about an arrangement for the cessation of the fighting, and can settle the points of that

arrangement. Secondly, some machinery must be set up which will see to it that that arrangement is put into force, that is to say, which will supervise the putting into force of the arrangement for the cessation of fighting; for instance, will supervise the withdrawal of tribesmen.

Two telegrams have been read by the representative of India as to the atrocities alleged on both sides, one from the Azad Kashmir people and one, a summary of what has appeared in *The Hindustan Times*. It is a horrible state of affairs, irrespective of the fact whether the truth lies on one side or the other, or whether it lies between the two; whether it is non-Muslims who have been butchered and massacred and have been expelled from their homes, or whether it is Muslims whose eyes have been gouged out and who have been massacred.

With a horrible state of affairs such as that, with that kind of people fighting each other, when a cessation is brought about there surely must be supervision, especially on the side of the tribesmen, who are an irregular force owing allegiance to no one. It is absolutely inescapable that military force must be available in the areas under the control of the Azad Kashmir Government to supervise the putting into effect of the cessation of fighting and the withdrawal of tribesmen.

India says "Our forces will do it." When that statement is analysed, what does it come to? What does it amount to? It amounts to this: Pakistan is called upon to exercise its influence to do whatever it can to ask these people to stop fighting the forces of India, and the forces of India thereupon are to march into their territory, to occupy it militarily and to expel these people. Is that the solution that the Security Council is putting forward? If not, then it is obvious that the Pakistan Government, in order to discharge this obligation, if it undertakes it, must have at its disposal a certain number of its forces to supervise the carrying into effect of the arrangement for the cessation of fighting, and to supervise the withdrawal of the tribesmen. There is no escaping it. It is contemplated in the resolution itself that there will have to be an arrangement for the cessation of the fighting.

I draw attention to sub-paragraph 2 (a):

"When it is established to the satisfaction of the Commission set up in accordance with the Council's resolution of 20 January that the tribesmen are withdrawing and that arrangements for the cessation of the fighting have become effective..."

Somebody has got to settle these arrangements between the two sides, and somebody has got to supervise their becoming effective. The Commission cannot get satisfaction until the matter is being properly carried out in an orderly manner.

That is one defect in the resolution, that it does not provide for that contingency. Then, the representative of India has raised one or two matters with regard to clarification, and I agree with him. If these paragraphs, these articles, contain something which to one party might mean X, and to the other party might mean Y, and X and Y are opposed to each other, it will not lead to a settlement. It will lead to further disputes. Therefore, to the extent to which the meaning can be made clear, the meaning should be made clear, and the articles should not contain conundrums to be solved subsequently by somebody else. The representative of India has asked for a clarification, and I join him in asking for a clarification of what is meant by "forward areas" and what is meant by "base areas". He has said that if "forward areas" are to be confined to areas within the control of the Government of India at the moment, he rejects this proposal. On the other hand, I desire to submit most respectfully to the Security Council that if by "forward areas" is meant any areas within the areas at present under the control of the Azad Kashmir people, they certainly will not, under any circumstances, agree that they should lay down their arms and that the Indian army should march forward and occupy their areas. Therefore, some kind of definition of "forward area" and "base area" must be made so that the parties will realize what is meant by these terms. Whoever was responsible for drafting this must have had something in his mind that ought to be made clear.

Certain changes have been made in paragraph 3. The representative of India said that nothing had been done to bring

the resolution more in accord with their wishes and that everything that had been done worsened it from their point of view. So far as the changes in the draft resolution, as it stood on 30 March, are concerned, except for two phrases, every change that has been made in the draft has been an attempt to meet the Indian point of view. I do not say that that in itself would be anything to object to; if a particular point of view can be met without in any way interfering with the fairness or impartiality or the practicability of a proposal, by all means that attempt must be made. That is the only way to bring the parties closer together or to make a proposal as acceptable as possible to the parties. It was not correct when the representative of India contended that all changes in this draft have worsened it from his point of view.

Let me compare paragraph 3 as it stands in the present draft with paragraph 3 as it stood before. His main criticism is directed against paragraphs 4 and 5 read together. I also have a fairly serious criticism to make of paragraphs 4 and 5 read together. In the first place, if the local forces provided for in paragraph 4, and referred to in paragraph 5, should be found to be inadequate, as paragraph 5 postulates, the Commission is authorized to arrange for the use of such force of either Dominion as it deems effective for the purpose of pacification.

But it makes this authority of the Commission subject to the agreement of both the Government of India and the Government of Pakistan. Exactly what does that mean? If the Commission feels that in certain areas, for the purpose of the effective re-establishment and maintenance of law and order, it would be best to use Pakistan troops and that the desired result would be achieved best in that way, it must ask for the agreement of the Government of India. If India refuses, what is to happen then? Or, put it the other way round—the converse case.

The paragraph is open to that criticism. But there is also another one. Does that paragraph mean what it says? Presumably it does. That is why it is there. If it does mean what it says, paragraphs 4 and 5 between them provide for the

re-establishment and maintenance of law and order, and that being so, where is the necessity for paragraph 9?

Paragraph 9 says:

"The Government of India should at the request of the Plebiscite Administration make available from the Indian forces such assistance as the Plebiscite Administration may require for the performance of its functions."

For the performance of its functions the Plebiscite Administration may require assistance of many kinds. But the only assistance it could possibly require from armed forces would be assistance in the maintenance of law and order when the voters' registers and lists are being prepared, and for the maintenance of law and order at the polling stations when the plebiscite is actually being held. That is all a part of the maintenance of law and order. That being so, if paragraphs 4 and 5 fully set up the machinery for the re-establishment and maintenance of law and order, all that is necessary is to add at the end of paragraph 5 the following words:

"The Commission shall place at the disposal of the Plebiscite Administration such assistance as the Plebiscite Administration may require for the performance of its functions", or "such forces as the Plebiscite Administration may require for the performance of its functions."

The fact that paragraph 9 provides separately for the forces of India to become available to the plebiscite administration for a purpose which could only be the maintenance of law and order seems to suggest—it may not have been meant that way, but if it stays there it seems to suggest—that paragraph 5 is not intended to mean what it says. If it does mean what it says, paragraph 9 is not at all necessary.

Under paragraph 9, all the forces required for the direct purpose of preparing and holding the plebiscite are Indian forces. Why? If it is true that the two parties are equally and vitally interested in this matter, if it is admitted that the whole

arrangement should be made fair and impartial, why are the forces to be employed for the very direct purpose of preparing for and holding the plebiscite confined to the forces of the Government of India? Why? For the restoration and re-establishment and maintenance of law and order people from the local areas are to be employed. If more assistance is required, both parties are to be called upon to contribute. But for the direct purpose of the plebiscite, the main object of the whole arrangement, any forces that are required are to come only from one side and not from the other. What is the justification for that? Is that fair? Is that impartial?

What is the kind of thing in actual practice that the plebiscite administration will have to control in respect of law and order? A clash or clashes between the supporters of Pakistan and the supporters of India may be apprehended, and it may be thought that a knowledge of the fact that the security forces are there in proper order will stop these clashes. But, if the people know that these forces will be drawn only from one side, that will be direct incitement and encouragement to the supporters of that side to commit aggression against the supporters of the other side, knowing that all the military forces for keeping order will be from one side. A cruel and pitiless experience of that kind of thing has already been the fate of millions of people in East Punjab and West Punjab. Does the Security Council require a repetition of that?

Throughout, as the Security Council claims to establish a fair and impartial field, the plebiscite administration is to keep order in connexion with the plebiscite directly. They are afraid the two sides might fight. Why? The fighting is bound to take place if the military forces which are to be there to keep order are drawn entirely from one side, because, if they are drawn entirely from one side, it is not only that they are the forces of the Government of India, but they are also composed only of non-Muslims. Having regard to the recent loot, arson, murder, massacre, rape and abduction to which certain parts of the country near Kashmir have been subjected, is it desirable that a similar state of affairs should be brought about again? What will the administrator do to prevent it from the start? He may

report afterwards that a certain side was to blame, that the troops misbehaved and that, under the circumstances, a fair plebiscite could not be held. Therefore, it ought to be postponed and a new arrangement ought to be made. But who will restore the lives lost, the misery inflicted and the injury done after it has happened? This is not a chimera of my imagination. That has happened to millions during the last few months in East Punjab and West Punjab. But, on the other hand, if clashes are apprehended, it might have a quieting effect if both sides know there are troops that will be impartial at the disposal of the administration. One side will not be encouraged to incite aggression, as it is bound to do in the other situation.

We then proceed to paragraph 6 of the draft resolution, which, as the representative of India says, is crucial. It certainly is. Again, what does it mean?

"The Government of India should undertake to ensure that the Government of this State invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the ministerial level, while the plebiscite is being prepared and carried out."

If it means what it says or what it appears to mean, it may in actual practice provide what is necessary. But it is so framed that it may be pulled one way by one side, or the other way by the other side. If it means that the major political groups—that is to say, the National Conference, etc.—will be invited to designate responsible representatives to have a full and equal share in the Council of Ministers, then, after all, "to share equitably and fully in the conduct of the administration at the ministerial level" is somewhat of a certain designation. What is meant? Will they be ministers, or what will they be? If they are going to be ministers, why not say so? If that is meant, that might be the solution. If that is meant, then let us be quite clear as to what is meant. It says "ministerial level" and, if it means ministers, why put it in that round-about way?

After all, it must also be remembered that though some of us are fairly intimately familiar with the English language, it is not our mother tongue and, therefore, the simpler the language employed the more helpful will it be to those who may have to

decide what the articles mean and whether they guarantee that freedom to the people of the State of Kashmir which is predicated in sub-paragraph 1(a) as it was or sub-paragraph 1(b) as it is now.

Then, sub-paragraph 10(c) has been objected to. Again, I have no doubt that my learned friend, Mr. Ayyangar, has compared this as it now stands with the form it had in the draft of 30 March. This, to a considerable degree, has been watered down, and, having been watered down to that extent, the safeguard has been attenuated. There is no doubt that this is a valuable safeguard. One apprehends that it is intended to deal with such a state of affairs as when a man makes a speech and is prosecuted for sedition. The man says: "Look at my speech. Its burden is 'accession to Pakistan'. That is why I am being prosecuted." That kind of case should then be transferred to the special magistracy that was contemplated, but that has now been watered down in sub-paragraph 10(c). Apart from such a speech, a trumped-up charge may be brought against an active earnest worker of one side, who might say: "This has no foundation; it is due to prejudice against me because I have consistently and throughout made no secret that I am a supporter of accession to Pakistan." If he makes good that statement, then they would say: "There might be something in it, and he had better be tried by impartial people." There are all sorts of occasions where the judicial machinery of the State is sought to be made an engine of oppression in order to help one side. That was broadly the object of this safeguard—a valuable safeguard—but it has been considerably watered down.

Then there is paragraph 11, which states:

"The Government of India should undertake to prevent and to give full support to the Administrator and his staff in preventing any threat, coercion or intimidation, bribery or other undue influence. . ."

This is very valuable again, and the article goes on to state:

"... the Government of India should publicly announce and should cause the Government of the State to announce

this undertaking as an international obligation binding on all public authorities and officials in Jammu and Kashmir."

Then it becomes academic. You are trusting too much to the moral sense of the people, with regard to whose moral sense the whole of this arrangement expresses doubt as to whether they have moral sense to that degree or not. Therefore, it ought to be supplemented by a provision that a contravention of this obligation shall be punished in a certain manner, or that the plebiscite administrator will have the authority to deal with contraventions and to set down the law independently and the procedure under which these contraventions are to be dealt with. Otherwise, you lay down the law, but put no sanctions behind it.

Then, what about the threats, the coercion, and the intimidation that have already been employed? Obviously, these must be neutralized as far as possible, at least in respect of dismissed government officials.

Persons who have been dismissed since the question of accession to Pakistan or India became acute, and those who have been dismissed from the public service merely because they were in favour of accession to one side or the other, must be restored to their official positions. That is the important first step in creating confidence in the minds of the people that a fair and impartial opportunity for recording their votes will be provided.

Persons who have been penalized for political activity—those who have been sent to gaol without trial, and even those who have been imprisoned after trial—must be restored to liberty and freed from the effect of the penalties imposed upon them. It is not enough that those who are still languishing in gaol should be restored to liberty. A man's house or property may have been sold in order to raise the amount of a fine imposed upon him for his advocacy of accession to Pakistan. There must be authority to settle that kind of thing. It must be part of sub-paragraph 14(b), which provides that there shall be no victimization. If there is to be no victimization, then past victimization must be neutralized.

Paragraph 16 reads:

"The Governments of India and Pakistan should each be invited to nominate a representative to be attached to the Commission for such assistance as it may require in the performance of its task."

The status, functions and duties of these representatives must be set out so that they know where they stand *vis-a-vis* the Commission. Their rights of access and advice to the Commission, and their obligations, must be stated so that the Commission can insist that they perform and discharge the obligations they have undertaken.

As the President is aware, we submitted, on 7 April, amendments to this draft resolution which would bring out and provide for the contingencies I have mentioned this afternoon. I have taken the liberty of having our draft resolution mimeographed. It is now being circulated to representatives, and if I may I should like to take a few minutes to draw the attention of the Security Council to the changes which have been proposed therein.

The preamble and sub-paragraph 1(a) stand as they stood in the draft which the Security Council communicated to us before it was slightly further modified in these respects. But at the end of sub-paragraph 1(b), as you will notice, a sentence has been added. It reads as follows:

"The Government of Pakistan may, if it considers it necessary for the purpose of fulfilling this obligation, employ its armed forces in the State."

That would meet the first contingency to which I drew attention—a settlement of the arrangements for the cessation of fighting and supervision of the withdrawal of the tribesmen.

Then, article I-A has been suggested for the purpose of bringing about an arrangement for the cessation of fighting. I am bound to point out, of course, that it is based upon the assumption that the Security Council does not desire that upon cessation of fighting, the armed forces of India shall march into

the areas under the control of the Azad Government and occupy them militarily. Therefore, it reads as follows:

"The Governments of India and Pakistan shall instruct their military authorities in the State to co-operate with each other in concerting measures to bring about a cessation of fighting at the earliest possible date and the Government of India shall issue orders that from the appointed time and date of the cease-fire order Indian forces shall not advance further into the State."

Then, in the fifth line of sub-paragraph 2(a), instead of a plan "in consultation with the Commission," we have suggested:

"A plan approved by the Commission for withdrawing their forces from Jammu and Kashmir and reducing them progressively to the minimum strength, which together with the military forces of Pakistan, may be required by the Commission under article 5 for the support of the civil power in the maintenance of law and order."

That is obviously necessary because article 5 contemplates that, in a certain contingency, the Commission may draw upon the forces both of Pakistan and of India.

Sub-paragraph 2(c) is deleted from there and is put into a separate article, article 2-A. But the Security Council will now have forces of both Pakistan and India to station, and the following scheme is put forward:

- "(i) Pakistan troops shall be stationed in predominantly Muslim areas and Indian or State troops in predominantly non-Muslim areas;**
- "(ii) The presence of troops—Pakistan, Indian or State—should not afford any intimidation or appearance of intimidation to the inhabitants of the State."**

Article 2-A (ii) is the same as sub-paragraph 2(c) (i), which was deleted.

"(iii) The number of troops to be stationed within the State shall be the minimum. Any reserve shall be located outside the State boundaries."

Any reserve may be next to the boundaries but we suggest that it should be outside the boundaries.

There is a redraft of paragraph 5. Instead of making it contingent upon the agreement of the two Governments, article 5 reads as follows:

"The Governments of India and Pakistan shall make available to and place under the direction and control of the Commission armed forces in such strength as the Commission may consider necessary for the support of the civil power in the maintenance of law and order."

The decision is left to the Commission and, under our scheme, any forces that go into the State of Jammu and Kashmir, whether Pakistan, Indian or State forces, shall be under the complete control of the Commission. That will give unity of control.

To sub-paragraph 10(b), for the purpose of clarification, we have added the following at the end of the paragraph: "... which"—that is to say, the Government of the State—"shall for this purpose delegate the necessary powers to the Administrator General." That is only a drafting arrangement. It imports nothing new.

Article 10(c) retains in the first part the original suggestion contained in the draft of 30 March:

"The Administrator General, acting through an Assistant chosen by him as his Deputy from a panel of neutral jurists prepared by the President of the International Court of Justice . . ."

It retains that draft, but we do not consider it so essential that we insist that the draft must be reverted to. If the present draft is preferred, we shall have no objection to it. But it was based upon the draft of 30 March, which reads:

"... may appoint special magistrates to deal at any stage, to the exclusion of jurisdiction of the ordinary courts. . ."

That phrase we insist upon. It was contained in the original draft and we think that it is an essential part of the safeguards. Then there is a certain redrafting, namely:

"... with cases which in the opinion of the Deputy have a bearing upon the proper conduct of a free and impartial plebiscite or which might in any way influence the free expression of opinion concerning or the free exercise of the vote in the plebiscite."

If safeguards are necessary, it will be agreed that this phrasing will make the objective more assured than the present, as I have said, watered-down version of it.

Article 10(d) states, in part:

"The terms of service of the Administrator General shall be decided by the Secretary-General of the United Nations after consultation with the Governments of India and Pakistan."

The draft resolution refers only to the Government of India.

Article 11 has, in the first part, two slight modifications. In addition to "intimidation, bribery" and instead of—"undue influence" it states: "or pressure on the voters in the plebiscite, and shall publicly announce this undertaking as an international obligation binding on all public authorities and officials and other persons in Jammu and Kashmir." This includes the provision that others besides officials must not interfere in the plebiscite. We have then added the sentence:

"The Administrator General shall prescribe the law and the procedure to deal with such offences and the punishment therefor."

There is a slight modification to sub-paragraph 14(a) which adds the provision that people who were expelled from the

State will be provided, upon their return, "with all necessary facilities and assistance for their rehabilitation" by the State Government.

The important modification is in paragraph 16. I have already submitted that the status and working functions of the representatives are not set out, and article 16 of my draft resolution seeks to do that.

It reads:

"The Governments of India and Pakistan are each invited to nominate a representative to be attached to the Commission for such assistance as it may require in the performance of its task."

We add to the paragraph as it now stands, the following:

"The representatives shall advise the Commission in all matters arising out of or connected with its functions and shall be entitled to take part in the meetings and discussions of the Council but shall not have the right to vote."

That is to say, the decision shall always be the decision of the Security Council. Our meaning may be expressed in a different manner; we do not insist upon this phraseology. Our meaning is that the representatives shall have complete liberty to represent the full claims of their Governments to the Commission.

We also add the sentence:

"The representatives shall be responsible for the carrying out by their respective Governments of all obligations arising out of the present Articles of Settlement and shall have the power to cause to be fulfilled by the State Government all such obligations."

This statement requires an explanation. Obviously, the Pakistan Government will have undertaken obligations under these articles. Its representative will be present to be called upon at once by the Commission, which might wish to say,

"We have received this information and your Government ought to do this in the discharge and fulfilment of its obligations." With regard to the Government of the State, if it is to be constituted under article 6, it will be a Government representing all the political groups in the State. Therefore, both the representative of the Government of India and the representative of the Government of Pakistan must jointly undertake the obligation to see that their respective State Governments fulfil their obligations.

The representative of the Government of India may say: "We warned you against a coalition government. It is this minister who was taken from the Muslim Conference who is not doing his duty with regard to this. We cannot do anything with him. We are unable to do anything with this minister from the Azad Kashmir Government. We told you they were insurgents and rebels. You said they were to be taken into the Government. We would not touch them with a pair of tongs."

But then, if this happens, there is the representative of Pakistan who will say, "You have got to ensure that the obligations are fully discharged." In case a situation of this type does not occur, we say that our provision is an insurance that ought to be included in order to make the scheme workable.

I shall now revert to the crucial paragraph—paragraph 6. If that has been re-drafted again, it is to clarify it in the direction that I have explained. If it means what it says, then obviously this is the form which it ought to take:

"The Government of the State shall forthwith be reconstituted so as to give equal representation to each major political group in the State—viz., the National Conference, the Muslim Conference and the Azad Kashmir—which will each be invited to designate an equal number of responsible representatives to constitute a Council of Ministers. This Council of Ministers may choose one of its members to act as President, but in the allocation of portfolios it will be guided by the advice of the Commission."

It may be the advice of the Commission; it may be the

advice of the Administrator General. We do not care which it is. However, in order to make the Council function, in order to ensure that it does not fail at the very first stage of our dispute with regard to portfolios, somebody should have the authority to advise and his advice should be accepted.

There is a further correction, to which my attention has been drawn. In the middle of article 16, there appear the words "entitled to take part in the meetings and discussions of the Council". Obviously the word "Commission" should be substituted for "Council".

There are slight changes of phraseology in other places. However, nothing turns on them and I need not take up the time of the Security Council in drawing attention to them.

This is a clarification and, in some respects, a modification in accordance with the views that I have just submitted to the Security Council. This draft carries out those views, and we submit that it is fair and impartial. Three-quarters of the amendments to which I have drawn attention merely carry out the object of the provisions which are already in the resolution, but make them quite clear and make them workable. The rest of the amendments are, to some extent, modifications. However, they follow logically, so far as the military position is concerned, from paragraph 5, and so far as the administrative position is concerned, from paragraph 6—if those paragraphs mean what they appear to mean.

In conclusion, I wish to submit that neither I nor my Government nor my delegation is unconscious of the gravity of the issues involved in this matter. That is indicated by the mere fact that I have now been attending upon the Security Council for more than three months—primarily, no doubt, for my own purposes, and not with any thought that I am thereby putting the Security Council under any obligation in these matters—although, while I cannot claim the experience and the standing and the ability of my friend on the other side of the table, I have nevertheless undertaken, however inadequately I may be equipped for it, the obligation and the duty to look after the foreign affairs of Pakistan. My absence has to some extent been felt, and is being felt, in my country. I

myself seriously feel it. Nevertheless, my continued presence here is in itself some indication that the Government of Pakistan does realize the gravity of the issues before the Security Council.

On the other hand, the Government of Pakistan is entitled to expect that the Security Council, which is the organ of the United Nations primarily charged with the safeguarding of international peace and security, in approaching these questions, at the stage at which an attempt is being made to settle them by agreement—no doubt from the point of view of a compromise which may meet the views of both sides—and at the stage at which the Security Council has charged itself with the duty of producing a workable, fair, impartial scheme, will make that scheme as impartial as any that the wit of man can devise, or, to borrow the phraseology employed by the representative of the United States, as “free from the smell of brimstone” as it can possibly be.

True, the Security Council has to be occupied mainly with the different aspects of each question that comes before it. But it certainly has a higher duty to perform also. It has to build up its own prestige and the prestige of the United Nations on a moral and ethical basis. I am not suggesting, by any means, that every member of the Security Council is not fully conscious of that aspect of its obligations. But I do submit that even when other things are equal, the final decision ought to be swayed by those considerations and, with all respect, I submit that other things are not equal here.

I venture to submit—and I shall respect this as my last point to the Security Council—that what we have asked for is aimed at bringing about a fair and impartial field for the holding of a plebiscite. What is insisted upon by the representative of India is bound to affect the impartiality and fairness of the plebiscite. If it does affect it, it can affect it in only one direction and cannot possibly affect it in the other.

I submit, therefore, that if the revised draft resolution under consideration by the Security Council can be clarified and expanded in the directions which I have submitted, my Government will undertake to discharge such obligations as are laid

upon its shoulders to the utmost, to more than the complete satisfaction of the Security Council, the Commission and the Plebiscite Administrator, and my Government will go to whatever lengths may be necessary to give complete satisfaction in every respect.

Claims have been made by the delegation of India that India is a peace-loving State. I do not dispute that. They have said that India is not only willing but eager to discharge its obligations under the Charter. I do not dispute that. But if there is any implication that Pakistan is not equally a peace-loving State and is not equally eager and willing to discharge its obligations under the Charter, that is an implication that I very seriously and strenuously contest.

109. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 289 held on 7 May 1948

It is a matter of gratification that a certain definite stage has been reached with regard to the Security Council's efforts to bring about a settlement of the Jammu and Kashmir question between the Dominion of India and the Dominion of Pakistan.

In view of the announcement which the President has just made regarding the nomination of the United States as a member of the Commission, thus completing the formation of the five member Commission, it is not necessary for me to make any comments now with regard to one or two declarations that appeared in the Press on behalf of the Government of India since the matter was last considered by the Security Council.

We are particularly gratified that the United States has found it possible to undertake the responsibility which the President of the Security Council under the terms of the resolution of the Council [document S/726], has cast upon that great country. We trust that it will now be possible to get the Commission together at as early a date as possible, so that it may forthwith assume the discharge of the obligations laid upon it by the resolution of the Security Council.

Speaking for the moment completely as an individual keenly and passionately desirous of peace between the two Dominions and of peace all over the world, may I be permitted to give expression to the following hope and conviction: that if the Commission proceeds immediately to the spot and gives concrete and practical proof of the fact that it will discharge the duties cast upon it by this resolution—in the spirit in which the resolution was conceived and in the light of the interpretation of its meaning placed upon it by the members of the Security Council—this will be the most effective way of convincing both the Governments of India and Pakistan, and the peoples of India and Pakistan, that the Security Council seriously desires peace and is determined to take every step to bring it about.

As I have said, I make this observation not as the Foreign Minister of Pakistan, and not even as a person connected with one side or the other, but out of my passionate desire to see that peace should be restored as early as possible to these distracted areas, and also, as a result of the effort of United Nations, to other areas which are at present in a disturbed state.

As the President is aware, I had requested an opportunity, before I start on my return journey to Pakistan, to place before the Security Council such aspects of the remaining questions in difference between Pakistan and India as have had to be brought to the notice of the Security Council, so that after hearing what the representative of India may have to say on them, the Security Council may be able to proceed to contain such steps as may be necessary for the settlement of those differences.

In order to dispose of as many comparatively non-controversial matters as possible, I would, with permission, deal first with this third question, namely, the non-implementation of agreements. In paragraph 26 of part III of document S/646, three matters are set out:

- "1. Division of military stores;
- "2. Division of cash balances;
- "3. Interference with the Reserve Bank so as to destroy the monetary and currency fabric of Pakistan."

With regard to the third of these items, the Government of Pakistan is setting up its own State Bank with effect from 1 July 1948, and that being so, I do not think that any useful purpose would be served by reviving before the Security Council a controversy which has ceased to be of any practical significance today. I have no desire merely to blame the Government of India for what may have been done in the past, so that that matter may be regarded as adjusted, or as no longer being a live issue.

With regard to the division of cash balances, out of the 550 million rupees which were due to Pakistan at the time when this matter was brought to the notice of the Security Council by Pakistan—which payment was then being wrongfully withheld—500 million rupees have since been paid, leaving only 50 million rupees which India has again wrongfully, from our point of view, withheld as an advance adjustment of certain claims by her against Pakistan. We do not accept that action as correct, but the amount involved is so small, and in any case the question is one of adjustment at some date or other which may soon be reached, that with reference to this question also I have no desire to trouble the Security Council this morning. It, too, may be considered as a matter which is no longer of any practical significance, so that under this heading of non-implementation of agreements, the Security Council is left to deal with one question only: the division of military stores.

Paragraph 27, part III of document S/646, to which I have already drawn attention, reads:

"To supervise the division of armed forces and military stores, a Joint Defence Council was set up consisting of Lord Mountbatten, Governor-General of India, as Chairman; representatives of the two successor authorities, India and Pakistan; and Field-Marshal Auchinleck, the Supreme Commander, as impartial authority to implement the decisions of the Joint Defence Council. It was estimated that the Supreme Commander would be able to complete his task by 31 March 1948. Within a very short time of the setting up of the Supreme Command, India created so

hostile an atmosphere in Delhi that the Supreme Commander found it impossible to discharge his responsibilities and was forced to recommend the abolition of his headquarters long before he had completed his task. In spite of the protests of Pakistan, the Government of India succeeded in doing away with this impartial organization which could have ensured equitable distribution of the stores and proper reorganization of the armed forces. The India Government pledged their word at the time that Pakistan would get its due share of military stores"—within a short period—"These assurances were supported by Lord Mountbatten who, at a meeting of the Joint Defence Council held on 8 November, stated that 'he believed that in view of the unanimous endorsement given by the Indian Cabinet to the pledge that India would deliver to Pakistan the latter's full share of stores, Pakistan's principal objection had been met.' This pledge, like other similar pledges of the India Government, has not been honoured and the slight trickle of military stores to Pakistan shows signs of stopping altogether."

That was the position set out in the document of 15 January 1948. The delivery of military stores due to Pakistan from India is still in a most unsatisfactory condition. The exceedingly slow rate of this delivery may be judged from the fact that of 165,000 tons of ordnance stores due to Pakistan from India, only 4,703 tons had been delivered by 31 March 1948, leaving a balance of over 160,000 tons still to be delivered.

In engineering and canteen stores, the proportion delivered is somewhat higher, but the really vital stores for the efficiency and usefulness of an army are ordnance stores, and so far as those are concerned, over a period of seven-and-a-half months, less than three per cent of the stores due have so far been delivered. The delivery of telegraph stores is also proceeding very slowly and, according to a telegram dated 17 April, the Prime Minister of Pakistan has been forced to draw the attention of the Prime Minister of India to this fact. Despite repeated representations by the Pakistan Post and Telegraph Department and the appointment of a special staff to attend to this work, stores valued at less than one million rupees have

been released out of stores worth 11 million rupees due to Pakistan. That is less than approximately nine per cent. Of this small amount of released stores, only one-third have actually been received. No laboratory equipment, testing equipment, carrier terminals and repeaters have so far been released by India despite the repetition of the protest.

Similarly, no copies of workshop specifications and drawings have so far been supplied. From this brief account, the Security Council will realize that Pakistan has been placed under a very serious handicap by the non-delivery of these stores. Neither its military services nor its telegraph services can be maintained at any adequate level in the absence of the delivery of these stores. There is no denial, I believe, on the part of India that these stores are due to Pakistan and ought to be delivered at as early a date as possible.

For some time the excuse put forward was the lack of and disruption in communications. Fortunately, those considerations do not continue to apply, at least not in the same degree. But unfortunately, no eagerness has been noticed on the part of India to fulfil these obligations, and this is a matter which is causing a good deal of irritation and friction, and which continues to produce bad feeling, between the two Governments. In respect of this matter, what is desired is—and one way of dealing with the matter may be—that the Commission that has been set up, since it was clearly envisaged that it might be charged with other duties in addition to the settling of the question of Jammu and Kashmir, might be charged with the duty of supervising the implementation of the agreements between India and Pakistan to which attention has been drawn, so that, under the supervision of an international authority, this matter can be amicably adjusted and settled. I trust that there will be no objection on behalf of India to this suggestion.

I shall now refer to the question of Junagadh, Manavadar, and Mangrol. This question has actually been submitted to the consideration of the Security Council in speeches made by me, and on behalf of India by Mr. Vellodi and Mr. Gopalaswami Ayyangar, so that the Council is in possession of its principal features. The outstanding feature is that these States acceded

to Pakistan; subsequently, they have been occupied by the armed forces of India and, since that occupation, it has been announced that a plebiscite has been held the result of which shows that an overwhelming majority of the peoples of these States are desirous of acceding to India.

The Security Council is aware that, before this alleged plebiscite was held, protests were made on behalf of Pakistan, and a request was made that the plebiscite be postponed. The request was conveyed, through the then President of the Security Council, to the Chairman of the Indian delegation, and he himself not only promised to convey the request to his Government, but expressed the view that there should be no difficulty in complying with that request. The request was not actually complied with but, on a later occasion, the representative of India stated that the Government of India would be quite willing to carry out an impartial plebiscite in these States regarding the question of accession. That being so, without going at this stage into unnecessary details, the question to be dealt with in connexion with Junagadh, Manavadar, Mangrol, and other States of Kathiawar which lawfully acceded to Pakistan but have since been forcibly occupied by India, is the settling of conditions under which a plebiscite could and may be held.

In this connexion the Pakistan delegation addressed to the then President of the Security Council, on 26 April, a communication containing the outline of a settlement of this problem. This brief document recommended:

- "1. That the Government of India should withdraw their forces from these States and reclaim the administration to their lawful rulers.
- "2. That the Government of Pakistan should agree that a nominee of the Secretary-General of the United Nations be appointed to be the administrator of these States."

I might explain that that means not merely an administrator for the purpose of the plebiscite, but an administrator to take the place of the present administrator appointed by the

Government of India; that is, he would be responsible for the complete administration, including the administration of the plebiscite.

"3. That the Government of Pakistan should agree that the administrator acting as an officer of the States shall be in charge of the entire administration of the States and shall have all power necessary for holding a fair and impartial plebiscite under the supervision of the United Nations Commission to decide whether these States are to accede to India or to Pakistan.

"4. That the Government of Pakistan should, at the request of the administrator, make available such forces as the latter may require for the performance of his functions.

"5. That the system of safeguards adopted in the case of Kashmir for ensuring a free and impartial plebiscite should be applied to these States with suitable modifications arising from the fact that these States, although at present in the unlawful occupation of India, are constitutionally in accession with Pakistan. In particular, all citizens of these States who have left them on account of disturbances, should be restored to their homes, lands and properties, and should be free to exercise their rights as citizens of the States.

"6. That the Government of India should agree to pay compensation for losses and damage caused by the unlawful actions and activities of the military forces, civil and administrative officers, and nationals of the Indian Union in these States."

It will be appreciated that this is, *mutatis mutandis*, the scheme the Security Council adopted with reference to Kashmir, except that the Commission, as well as the administrator, are proposed to be given the widest possible powers. Pakistan seeks to make no reservations in respect of its powers, such as have been made in respect to the powers of the Commission and the Plebiscite Administrator in the case of Kashmir, or such as have been sought by the Government of India in this case.

In this connexion, I may draw the attention of the Security Council to two communications received, the first from the private secretary to the ruler of Manavadar, and the second from the Diwan of Mangrol. The first, dated 5 April and addressed to the Secretary of the Ministry of Foreign Affairs, Karachi, reads as follows:

"I write to say that after the illegal occupation of Manavadar by India, the Muslims there were terrorized by Indian armed troops and many of them rushed to Karachi, leaving their homes and hearths. Some of the Muslims recently returned to Manavadar, while others went to Veraval"—a port in Junagadh—"but it is reported that they were not allowed to enter the territory of Manavadar by the authorities there. I have to request you to move this matter with the Government of India so that the Muslims returning to Manavadar will not be harassed.

"I have also received information that the Muslims of Manavadar were forced by the authorities to send a cabled message to the United Nations Security Council, Lake Success, that the situation in Manavadar is peaceful and normal and that Muslims are not terrorized and harassed. Those who refused to sign this message were harassed by the authorities. I may also say that Muslims are still terrorized in Manavadar and they are threatened that if they go to Pakistan, their properties will be confiscated. The Begum Saheba of Manavadar"—that is to say, the wife of the ruler—"desires me to request you to do something effective to secure the freedom of the ruler of Manavadar. I shall be grateful if you would kindly let me know whether anything has been done in the matter."

The second letter, as I have said, is from the Diwan of Mangrol, dated 22 April, and is addressed to me here. It says:

"The following telegram was sent to the Honourable Pandit Jawaharlal Nehru and the Honourable Sardar Vallabhbhai Patel on March 8, 1948:

"Sheikh Sahib of Mangrol's"—meaning again the ruler of Mangrol—" 'simple imprisonment at Porbandar changed to rigorous. Neither allowed to stir out of his room nor hear any news. Cannot see visitors or even his family members. Stipends to ruling family for maintenance discontinued. If you hate communalism and believe in non-violence, why this barbarous treatment under your Premierhip, for the only crime that he is a Muslim who wanted accession to Pakistan? Kindly accord him treatment at least humane.'

President, Mangrol Refugees"

The letter continues:

"I am sorry to tell you that neither was any reply received nor had it any effect to change the attitude of the Government of India. Sheikh Sahib is no longer a guest of the Indian Dominion. He was taken prisoner on 1 November 1947 and was subsequently removed to Porbandar. Now he is confined to a house strictly guarded by the Indian military. Incarcerating a Muslim ruling prince for no other reason than that of accession is a clear sign of communal antagonism tantamount to breach of international law. If India, after victimizing and maltreating the ruling princes of Manavadar and Mangrol behind the bars for a protracted period of six months to coerce their surrender to the forcible demand of India to accede to India, poses at Lake Success to be the host of these princes, such a pose ill becomes India. Nevertheless, the Sheikh Sahib is still resisting and patiently undergoing the grim ordeal. Now the hour of his trial is knocking at the door of the Security Council. He is anxiously awaiting the result of the discussions at Lake Success, which perhaps might be prolonged for an indefinite period. I request you, therefore, to kindly move the members of the Security Council to exert influence on the Indian delegation to secure, at least at this stage, the Sheikh Sahib's release until the matter is finally decided."

I have drawn the attention of the Security Council to these two communications in connexion with the suggestion which

has been put forward by us that the very first step to be taken, after the withdrawal of India's armed forces from the States, is to restore the lawful rulers to their due position in these States.

It may be urged that since the division of India into the Dominion of India and the Dominion of Pakistan, a great change has taken place in the status of the rulers of Indian States which are in accession to the Dominion of India. That, no doubt, is a matter dependent upon accession to one side or the other. Assuming that these States ultimately decide to accede to India, there will be nothing to stop these rulers or their people from aligning themselves, in the scheme of the future administration of the Indian States, in the same manner as the remaining States have done. What I want to emphasize and to make clear is that the demand for the restoration of these rulers does not mean that they must necessarily thereafter, whatever the result of the plebiscite may be, continue in the autocratic position in which they were up to 15 August 1947. They will have to take their chance with the rest, and their position will no doubt correspond to the position of the other rulers. But that they are entitled to be restored to the position of rulers, to whatever the insignia of that position might now be reduced, is a matter which admits, I trust, of no controversy; and as an immediate step, even before a resolution is passed here, I would, through the Security Council, convey the suggestion and the request of these people who have addressed these letters to us, to the effect that these two unfortunate rulers should be released, set at liberty, and restored to the ordinary, normal life of a free, respectable person. That concludes my submission on the question of these States.

That brings me to the second question: genocide. Though this matter has not yet formally been moved and discussed in the Security Council, a good deal of the material upon which my submission is to be based had, of necessity, to be placed before the Council in my very first submission to it, in order to furnish the Council with the background of the unfortunate events that had occurred across the borders of East and West

Punjab, out of which the situation in Kashmir had directly arisen [228th and 229th meetings].

That material was placed before the Security Council in order to enable it to appreciate the Kashmir problem against its proper background. However, the material is there and therefore it is unnecessary to go over the gruesome details again, as I have no doubt that the representatives will be able to revive and refresh their memories with regard to this matter by a perusal of that portion of the record which relates to it. But I shall try, briefly, to sum up the matter today, so that the Security Council receives a view of the principal aspects of the problem, and of what is required to be done with regard to it.

Since I addressed the Security Council on this matter, I have received certain authentic documents dealing with these matters issued by the West Punjab Government as government publications. I regret that I do not have enough copies here to supply every member of the Council, but I shall be able to supply at least three copies to the Secretariat for such use as the members of the Council might wish to make of them.

The first of these booklets is called *Note on the Sikh Plan*. It will contribute towards shortening my submission to the Security Council if I read aloud certain brief portions from this booklet. The first, second and last paragraphs of the foreword will show what these booklets contain. These paragraphs read as follows:

"In the year 1947, between half a million and one million Muslims—men, women and children—were murdered in the Punjab and Kashmir State by Hindus and Sikhs. Some were murdered in Delhi and the other parts of India. Five million of those who escaped these genocidal massacres were chased out of their homes; dispossessed of their lands, their household goods, their ploughs, and their cattle, they found refuge in Pakistan.

"Most of this destruction took place in a few weeks. It was swift and widespread because it was planned. The manufacture and collection of arms had been going on for a long time. Two vast secret armies, the *Akal Fauj* of the Sikhs

and the RSSS of the Hindus, had been organized for it. Many Hindu and Sikh political leaders were at the back of it. So were many Hindus and Sikhs among the officials, the police and the army. So were the rulers of Sikh States in the Punjab, and the Maharajah of Kashmir."

The last paragraph reads as follows:

"These accounts have been prepared from authentic records and from the statements of eyewitnesses. They are, for the most part, purely factual. They contain no speculation and the minimum of comment."

The first two paragraphs of the *Note* itself are also important. They read as follows:

"This account of Sikh preparations on military, terrorist and aggressive lines is reconstructed from official records. These records were filed during a period when the government in power was either the Unionist Government in which Hindus and Sikhs participated or was directly under the control of the Governor of the Province under section 93 of the Government of India Act. In neither of these governments did the Muslim League have any share. Indeed, the Muslim League was emphatically and vigorously opposed to either government. The official machinery to which we owe the collation of these records and the collection of intelligence and information on which they are based was in no sense under the control of the Muslim League and, in fact, in many cases was the target of their disapproval and protest. The possibility that the official machinery was inspired by, or biased in favour of, the Muslim League, which is the party in power today in all parts of Pakistan, may therefore be reasonably ruled out.

"The ultimate goal which the Sikhs had set before them seems to have been the establishment of Sikh rule in the Punjab. Their preparations to this end were aimed directly and exclusively against the Muslims. Whether the Hindus, who formed the bigger minority in the Punjab, would

ultimately have acquiesced in the fulfilment of Sikh ambitions at their expense is doubtful; but, for the time being they made common cause with the Sikhs. The activities and preparation of the two, therefore, run parallel to each other and even where active conspiracy between them is not evident, the fact that they regarded the Muslims as their common enemy created a mutual disposition towards collaboration which virtually amounted to a conspiracy and led to concerted effort."

The concluding section may also be submitted to the Security Council. It reads as follows:

"Hindu-Sikh preparations on these lines continued throughout July and well into August, but by then the plan that had been maturing for months, and perhaps longer, had already begun to be translated into action. The manner in which the plan was implemented forms the subject of another note, but enough material has been given in the foregoing pages to leave little doubt of the existence of a plan. The facts presented above are based on official reports which whatever their shortcomings, remain, comparatively speaking, the most reliable, authentic, the best informed and most carefully sifted body of evidence available on the subject of Sikh secret activities during the first half of 1947. These facts emerge from a mass of details which have been put down at some length and with the minimum of comment because in their accumulative effect they constitute overwhelming and incontrovertible evidence. It is clear from this evidence that, as part of the more ambitious irredentist dream of Sikh sovereignty, the immediate objectives of the plan were: (a) extensive sabotage and destruction of Muslim life and property; and (b) the elimination, if possible, of Muslims from the Sikh belt along the eastern border of West Punjab.

"This plan was conceived by the Sikhs, though a section of the Hindus was not only aware of its general outlines and implications, but aided and abetted them at many points.

The central figures of the conspiracy were Master Tara Singh, Giani Kartar Singh, Udham Singh Nagoke and other leaders of the Akali Party. The main lines of the preparations were: (a) the collection of funds; (b) the collection, manufacture and import of arms; (c) widespread and large-scale enlistment of Sikhs in private armies such as the *Akal Fauj* and the *Shahidi Jaihas*; and (d) the development of a well-knit organization capable of swift murderous action according to a centralized plan.

"All sections of the Sikh community—the intelligentsia, religious and political leaders, ex-INA men, peasants, teachers and students—were mobilized to perfect the plan and extensive, and in some cases elaborate, arrangements were taken in hand to train men both for staff work and for murder, looting and arson.

"The evidence presented in the foregoing pages as well as that contained in the appendices to this note places the responsibility for the plan unmistakably on the Sikh leaders (notably Master Tara Singh) who through these fateful months feverishly toured the Province penetrating to the remotest rural areas, preaching hatred and strife either openly or in the precincts of their *gurdawaras*, and hysterically preparing and equipping their followers to the highest pitch, for the perpetration of the massacres that followed. It also makes it clear that the Sikh States no less than the Sikh leaders of British Punjab were active members of the conspiracy and that the militant section of the Hindus (in some cases inspired, guided and trained by Hindu apostles of violence in other provinces of India) helped their designs throughout by carrying on underground terrorist activity and by organizing useful information and intelligence."

Appendix 1 of the booklet called *The Sikhs in Action*, to which I shall draw attention, sets out 107 cases of massacre, arson and looting, in which the police and military, or one of them, took an active part along with the Sikh raiders, in killing, looting and burning of property, and committing other outrages upon the Muslim population.

The second booklet is titled *RSSS in the Punjab*. The *RSSS* is a Hindu organization. On page 11 of that document the following is stated:

"The link between the Akalis and the *Rashtriya Swayam Sewak Sangh* became closer when Rai Bahadur Badri Das and Bakhshi Sir Tek Chand assured Master Tara Singh of the support of the *Sangh*, in combatting the threat of Muslim domination in the Punjab. Master Tara Singh reciprocated this gesture by issuing instructions to *Akal Sena* that henceforth the two bodies were to collaborate with each other. From now onwards, the Muslim was the common enemy aimed at by both."

The two men referred to by name, Rai Bahadur Badri Das and Bakhshi Sir Tek Chand, occupy a very eminent position among the Hindus in the Punjab. Rai Bahadur Badri Das was the leader of the Hindu Bar in the High Court; Bakhshi Sir Tek Chand is a retired judge of the same High Court.

As an illustration, pages 18 and 19 of the same document give some account of the preparations made by the *RSSS* with regard to its nefarious purposes. The following is stated:

"A Hindu, who was detained by the police and interrogated at Rawalpindi, confessed that he and his associates had been procuring arms from the North-West Frontier Province and had also manufactured bombs at Rawalpindi and Lahore."

This was before the partition took effect.

Then it goes on to state the following:

"He said that the arms and bombs procured were sent to Amritsar and Lahore for distribution to *Rashtriya Swayam Sewak Sangh* workers. He also confessed that among the persons who had obtained illicit fire-arms through him, was Captain A.N. Bali, Adviser to the Punjab National Bank, and that R.B. Badri Das of Lahore had visited Rawalpindi and had given 10,000 rupees to a local *Rashtriya Swayam*

Sewak Sangh worker for the purchase of arms. According to him the method employed for smuggling arms was to pack them in boxes and to mark them as containing medicines. Mention was also made about the establishment of secret bomb manufacturing factories in the Patiala and Faridkot States. The two-lakh fund, which was collected by Golwalkar during his tour, was probably used for the purchase of arms and for the manufacture of bombs. The Deputy Leader of the Congress Assembly party, now Prime Minister in the East Punjab, came to notice for giving a letter of introduction to a *Rashtriya Swayam Sewak Sangh* worker to Master Tara Singh for procuring bombs. After the March riots, the Congress influence amongst the masses began to wane and instead the *RSSS* and the Hindu *Mahasabha* became increasingly popular."

This document contains a very interesting circular drawn up by the *RSSS*, with the object of obtaining Hindu domination in certain parts of the Punjab, after the division should come into effect.

The third booklet is called *The Sikhs in Action*, and sets out what was actually done. This document, in appendix 1, contains the 107 cases of atrocities, and sets out the date, the time (where ascertainable), the place of occurrence, the nature of the atrocity committed, the personnel involved, and the name of the force or unit of the military or the police involved (if known), of the 107 cases where the rioters were supported in their activities of massacre and other atrocities by the troops and the police of the Indian States or of the Government of India. It also sets out, in the same form, an account of the atrocities committed. It draws attention, on page 28, to the fact that, "The most despicable feature of the East Punjab massacres was the active collaboration of the civil authorities, the police and the military, with the attackers and the looters," and sets out instances of it.

Now, with reference to this matter, Mr. Gopalaswami Ayyangar drew my attention—both outside the Security Council and, on one occasion, I believe, in the Council—to the fact that

atrocities and massacres had also occurred in West Punjab against Sikhs and Hindus. That is a fact which we have neither tried to conceal nor to suppress when placing this matter before the Security Council or condemning it outside the Council. But there is this distinction to be drawn between what happened in West Punjab and what happened in East Punjab: in East Punjab the massacre of the Muslims, and the atrocities committed against them, were the result of a plan, of a conspiracy, which was systematically carried out. And it was only when this plan began to be put into operation, and the Muslim refugees from East Punjab carried their tales of horror into West Punjab, that the population there was provoked into committing similar deplorable acts and atrocities.

There was the further distinction that in West Punjab a wave of persecution of that kind would arise whenever a wave of refugees came in from East Punjab. There was no plan; there was no preparation; there was no conspiracy. Nevertheless, what occurred in West Punjab is, as I have always said, equally deplorable and equally to be condemned.

The point I wish to stress is this. I shall presently show that conditions continue within the Dominion of India which cause a great deal of anxiety with regard to the future security, the safeguarding of life and property, and the procuring of a normal existence for the 35 million to 40 million Muslim population of India. If similar conditions are alleged to exist in any part of Pakistan, or if it is even feared that they exist, we are equally willing that measures which are to be taken in respect of East Punjab and in the Dominion of India may be applied equally, wherever applicable, to West Punjab. We do not shirk any inquiry and we should welcome any kind of machinery that may be set up to supervise the settlement of the solution which may be arrived at.

In this booklet, *The Sikhs in Action*, I wish to draw attention to a passage on page 49:

"This is as accurate and comprehensive a picture of the situation in the West Punjab in the month of September as can be given in a few paragraphs. It does not present the Muslims as entirely innocent, but there are some features of

this picture which sharply contrast with the general pattern of events in the East Punjab during the same period. Muslim excesses, apart from isolated stabbings and sporadic—comparatively minor—happenings, occurred in waves, each wave being caused by some provocation from the Sikhs, who were still residing in the West Punjab districts, or by news of some major atrocity in the East Punjab. Train and truck loads of Muslim corpses from across the border created reactions which it was not easy, either for the individuals directly affected or for the authorities, to control.

“Convoys of Muslims arriving from East Punjab presented a pathetic spectacle, whereas convoys of Sikhs evacuating West Punjab left their villages defiantly killing and pillaging on the way. Hardly any attack by the Muslims went unpunished by the military or the police. The non-Muslim minority in the West Punjab, be it noted, were able almost up to the last minute to be actively aggressive, and even when they were massed together in large concentrations, presumably for self-protection, to rush out at night and inflict casualties on the Muslims.

“A list of attacks in the West Punjab on refugee trains is given as an appendix. It will not be without interest to compare it with the statement of attacks on Muslim refugee trains. If nothing else, the comparison will at least show that the Muslims were not nearly so efficient in the art of large-scale killings as the non-Muslims across the border. They had no plan, no method, no organization. They acted as their natural impulses prompted them from time to time. When they were angry, they killed and looted and burned. When the anger passed, they fell again into a state of depression, puzzled at what had befallen them, until they were provoked again.

“Unlike the Sikhs and the Hindus, they did not have to go through a programme drawn up for them in a war room, a programme which they must carry out, provocation or no provocation.”

That is the essential distinction.

Section 13 deals with what happened in the Indian States which are now in accession to the Dominion of India.

Section 14 contains the summary, and I shall read it to the Security Council:

"This note is not intended to be a tale of horror. Gruesome details of rapes and tortures, and sickening accounts of brutalities and atrocities, of limbs torn and wombs ripped open, of maimings, beheadings and nauseating obscenities, have been deliberately avoided. Most of the thousands of refugee stories contain one or more of these details. But although they add enormously to the human suffering and humiliation which these events have caused, an intelligent reader can well imagine them for himself. It is enough for such a reader to be told that the loss of human lives from genocidal attacks and from lack of food, exposure and floods has been so great that it is difficult to find a parallel to it outside a large-scale war.

"The Muslim population of the East Punjab districts and States, allowing for a normal increase since the 1941 census, has been calculated at about 6 million. A census of refugees is already in progress in West Punjab, and is about to be taken in other parts of West Pakistan. Until that is concluded it is not possible to give the accurate number of those from East Punjab who have been forced to take refuge in Pakistan. But provisional calculations put the figure at about 5 million. And there are some Muslims still stranded in East Punjab. The remainder—that is, half a million to one million Muslims—either rest beneath the earth's surface in unknown field, ditches, drains, wells and rivers, or their bodies have been eaten up by dogs and vultures. Nor was it the intention to include all the events—even all the major events—in this note. There are too many of them, and too many others which will never be known, as those who could truthfully relate them are dead.

"The purpose of this note is merely to show that the crime of the Sikhs and their Hindu instigators and accomplices

was a premeditated crime, that these murders and massacres were planned, and that even as the secret preparations presaged an organized annihilation of Muslims, the methods of annihilation reveal previous preparations. The incidents that have been mentioned here have been with this end alone in view and do not claim to constitute an exhaustive picture, either in time or space, of the entire scene."

Later on, it is stated:

"In the East Punjab, however, the plan succeeded remarkably well. Within a few weeks an enormous population of Muslims that had been living there for generations were either wiped out or turned out completely and thoroughly. The fire-arms and other lethal weapons collected and manufactured over a number of months, the persistent conditioning of the Sikh masses by ceaseless propaganda and fanatical preachings, the organization and steady growth of the *Akal Fauj*, the close co-ordination with the Sikh States, the active help—with men, money and material—rendered by the Sikh rulers, the pact with the Hindus and their militant organization, the *RSSS*, the unity of purpose which inspired Hindus and Sikhs in all walks of life including civilian officials and the army—all these yielded an ample return. These elements of the plan manifested themselves in all parts of the province and where they found the fullest scope and encountered the least obstacles, as in the East Punjab and the Sikh States, their success was phenomenal."

That is what happened. That the provocation continues and has not come to an end may be gathered from the particulars set out in two further publications *Aerial and Land Incursions from East Punjab into West Punjab, including Incursions by the Military and the Police*, parts I and II. These are also official government documents.

It may be said that this is an old story; that since then efforts have been made by the Government of India to put an end to all the horrors; that the situation is much improved; that there is nothing further to fear in the way of genocidal activities.

For such efforts as have been made and for such results as have been achieved by private endeavour or through the Government, we are grateful. But that the situation has not radically changed so far as danger and fear are concerned, is perfectly obvious from what continues to happen.

The Security Council is aware, as the material was placed before it, of the seven points on which the late Mr. Gandhi succeeded in obtaining the agreement of the Sikhs and the Hindus for helping the Muslims of Delhi in the way of vacating the mosques and Muslim shrines that had been forcibly occupied, and in permitting the Muslims to live in peace wherever they wanted to live, and other similar matters.

With regard to the most important item contained in those seven points—that is to say, the vacating of Muslim mosques, tombs and shrines, the occupation of which obviously was a matter that would cause the greatest amount of distress to the Muslims—the position is that on 7 April, 167 mosques and shrines in Delhi, the capital city of India, were still occupied by non-Muslims, and had not been restored to the Muslims or to their proper use.

This is reinforced by official information sent to me by my own Government, obtained through our High Commissioner residing in Delhi. What the conditions in the Indian States have been and are may be gathered from this official report sent by our Deputy High Commissioner in Delhi to the Foreign Office at Karachi, dated 17 April 1948:

"I have just completed a tour of the States of Faridkot, Nabha, Patiala, Bharatpur and Alwar, where I have seen things with my own eyes. In every State they received me properly, and I had long discussions with the rulers. Patiala and Alwar took special measures to see that the people had no access to me during my stay. In Patiala there has been much killing of Muslims on which I am making a separate report. In Alwar, every single mosque, tomb, and graveyard, including those in military areas and in government custody, has been destroyed by the State by employing contractors, and roads have been constructed over these areas. Planned destruction of places of worship, graveyards, mausoleums,

and so on, are acts of vandalism on the part of the State and State officials.

"In my opinion, the Prime Minister of Pakistan should approach the Prime Minister of India to have a commission of inquiry set up to punish the evil-doers. A visit to Alwar will show the amount of hatred that developed in this particular State against the Muslims and their monuments.

"When inquiries are held, I am sure that the misdeeds of this particular State will be condemned throughout India and Pakistan.

"Large-scale forced conversions with the assistance of the army took place all over the State. The converted persons residing in Alwar town are in great distress. In February last, at my insistence, the Pakistan High Commissioner in New Delhi took up the question of the destruction of Muslim places of worship in Alwar with the Minister of External Affairs, New Delhi, and their reply is that they passed on the reference to the United States of Matsank for such action as they consider necessary. This is not enough and I propose that the matter should be taken up at the highest level by both the Dominions so that evil-doers are punished and damage done to the places of worship is made good out of the State Exchequer or at the expense of those responsible for planning deliberate destruction."

A very illuminating document is a standardized order issued by the district authorities in the Nabha State to the Muslims who, after these massacres and atrocities, were forcibly converted to Hinduism or Sikhism. A copy of this standardized order has been supplied to my Government by the office of our High Commissioner in India. I leave out the blanks which, of course, would be filled in, in each case. The order runs as follows:

"....., son of, having applied for permission to remain in his house in village, through the head of the village, after conversion to Hinduism or Sikhism, is hereby permitted to retain his old house in the said village

and keep with him the following members of his family
1.; 2.; 3.; 4.;
5."

The indication is—by including their names—that the members of the family must also be converted to Hinduism or Sikhism.

The order proceeds:

"He shall, after conversion to Hinduism or Sikhism, be permitted to the ownership of his house and household movable property and he shall have the same status of a *kamin*"—that is to say, a servitor—"as he was enjoying before conversion.

"Given under my hand and seal this second day of . . . ,
District Magistrate of . . ."

That is the kind of thing that is still going on.

The latest occurrence that has taken place in the Dominion of India itself was at a place called Godhra during the last week of March 1948. Godhra is a town about a couple of hundred miles north of Bombay in which the majority of the population was Muslim. This is what occurred. Sikh and Hindu refugees who had come into this town pulled down and destroyed a Muslim flag on 21 March 1948. This incident caused a certain amount of panic and tension among the Muslims. On 25 March, attempts were made by certain Hindu and Sikh refugees to install idols in a mosque. To those who are familiar with Muslim sentiment, it would be clear how gross an act of provocation that was.

These attempts were resisted by the local Muslims. In the afternoon of the same day, attacks were made on Muslims throughout the city. The next day, 26 March, large mobs of Hindus and Sikhs launched organized attacks on Muslim localities and set fire to them. This was followed by indiscriminate looting and massacre of men, women and children. The fire continued to blaze for almost a week and over 3,000 Muslim dwellings were reduced to ashes. Muslims began leaving the

town and neighbouring areas in great panic, so that by the end of the week the entire area became almost completely denuded of the Muslim population.

The official statement made by the Prime Minister of Bombay places the figure of Muslims killed at as low as sixteen. But there is good reason and evidence to believe that, unfortunately, the actual casualty list runs into four figures. Newspaper and other eyewitness reports indicate that there was definite official connivance, if not active support, in this outburst of communal hatred against Muslims. There is a good deal of material from which these conclusions have been drawn, with which I need not weary the Security Council.

Further east the attitude of the Hindus towards the Muslims might be judged from this English translation of a Bengali leaflet headed "Secret directive of all parties which believe in the cult of force and are in favour of annihilating Pakistan." It is not necessary to read the whole of this document to the Security Council. But every possible form of persecution and direct action that can be imagined is here set out as a guide for the Hindus, who should be ever alert to seize every chance to bring Pakistan to an end—not merely with regard to the treatment of minorities within their own areas, but to make it impossible for Pakistan to carry on.

From time to time conferences take place between the two Dominions to bring about some settlement of this very unfortunate problem. Recently an agreement was arrived at, mainly with reference to East and West Bengal, as to what should be the treatment to be accorded to the minorities in each Dominion. But what actually goes on happening leaves very little room for hope, unless the question is dealt with at the international level, that massacres and atrocities of the kind to which attention has been drawn will not continue to occur in various parts of the Indian Dominion.

Here is some evidence with regard to the attitude of leaders of Hindu society, of the Indian National Congress, which is the Hindu political organization, and of people in authority as ministers or as presidents of legislatures, with regard to what should be done to the Muslims and how they should be treated.

Mr. A.G. Kher, Minister for Local Self-Government in the United Provinces, said at a press conference:

"I would ask Muslims to prove by action that their expressed loyalty to India is genuine and unequivocal."

That is all right; nobody takes any objection to that. But I would request the Security Council to note how that proof is to be afforded:

"They should surrender all arms, even licensed arms, as an earnest of complete faith in the Government to which they owe allegiance."

The Muslims are called upon to prove their loyalty to the Dominion of India by surrendering all their arms, even those held under licences granted by the Government, as a proof that they have confidence in that Government. That is to say, they are voluntarily to disarm themselves so that when they are made victims of communal aggression they should not have even the means of self-defence available to them. And that is an invitation issued by the Minister for Local Self-Government in the United Provinces.

Mr. Charan Singh, Parliamentary Secretary to the United Provinces Government, in a statement issued from Lucknow, gave this advice to the Muslims:

"If Leaguers"—that is to say, followers of the Muslim League—"believe that they acted rightly in working for the achievement of Pakistan, then they must, in honesty, voluntarily leave for Pakistan today, as tomorrow circumstances will compel them to do so."

What is that if not a threat of a repetition of the kind of thing which had already occurred?

The President of the United Provinces Congress Committee, Mr. Algurai Shastri, after describing the Muslim Leaguers as fifth columnists and denouncing them for making efforts to infiltrate into the Congress ranks with the ulterior objective of

weakening the Congress Party, warned the Muslims in a statement. Before I quote from his statement, I want to draw the Security Council's attention to the fact that, on the one hand, continuous pressure is being put on the Muslims within the Dominion of India to the end that they should dissolve their own political associations and merge with the Congress. On the other hand, this is what the President of the United Provinces Congress Committee said on the subject:

"Congress cannot be befooled by the professions of loyalty to India so freely and frequently made by Muslim leaders. Nowadays, their sole aim seems to be to enter Congress"—exactly what they have been exhorted to do by the Congress—"by back door methods and get their share of the administration. But I warn them that we will have no truck with them. We will fight their views and fight their designs. The Leaguers know it, but they are out to befool Congress and Hindus. Some top-ranking Leaguers have assumed the role of defenders of Hindu rights and have appealed to Muslims to stop the slaughter. By this device they want to win the confidence of Hindus and get success in the elections which would be fought this time on the basis of joint electorates. But I want to tell the Leaguers that their tactics of infiltration and sabotage would not succeed. We also know that they have always betrayed the country."

What does this statement indicate? It says, "If you remain outside the Congress, you are disloyal because you do not join the political association of the Hindus; therefore, you will be discriminated against; you will receive practically no rights. If you seek to join the Congress, then you are doing it with ulterior motives." What are those "ulterior motives"? The "ulterior motives" are that one wants to be elected in the elections that might be held and to receive a share in the administration. But is that an "ulterior motive"? For what purpose does a person join a political organization at all? Obviously, so that others who think in similar terms with him and have similar policies, will have his support in the elections, and also that people should receive their due share in the

'setting up of the administration. These are the "ulterior motives" alleged here, and the Muslims are told, "You may remain outside the Congress or you may join the Congress, but you will have no standing whatsoever in these matters."

Mr. Vallabhbhai Patel, the Deputy Prime Minister of India, addressing the Muslims of the United Provinces on 6 January 1948, said: "I believe in plain speaking. I do not know how to mince matters. I want to tell the Muslims frankly that mere declarations of loyalty to the Indian Union will not help them at this critical juncture."

If one makes a declaration of loyalty, that is nothing. Even if one says, "Well, the eating of beef irritates and offends the feelings of our Hindu brothers, so we who live in India should give up eating beef," nevertheless, as the Security Council has already seen, that is also ascribed to "ulterior motives"—to hypocrisy and a desire to infiltrate. Yet the Muslims are told that mere declarations of loyalty to the Union will not do.

On 14 April 1948, Acharya Kripalani, who was at one time President of the All-India Congress Committee, suggested that the best way for the Indian Muslims to demonstrate their loyalty to India was for them to go in large numbers to Hyderabad and make the Hyderabad Muslims see reason—that is to say, that they should persuade the Hyderabad Muslims that they should accept accession to the Dominion of India.

That is the kind of proof that is being required, and if one does not provide it, one is barred.

Babu Purshottamdas Tandon, Speaker of the Legislative Assembly of the United Provinces, has said: "I appeal to the Hindus to organize themselves and prepare for the emergency which may arise in the near future." He went on to warn the Government of the United Provinces of "the danger of keeping Muslim officers in responsible posts." That is to say, Muslim officers in the Indian Administration should be got rid of. In the United Provinces, special tribunals have been set up to inquire into the loyalty of Muslim officers of the Government. These tribunals, which hold proceedings *in camera*, have absolute power to accept or reject any part of the evidence they wish, and their orders are not subject to appeal. About one

thousand Muslim officers in the United Provinces alone are at present undergoing this investigation. It is all very well to investigate the loyalty of any particular government officer, but this is obviously a device to get rid of Muslim officers from the Administration.

I want to turn now for a moment to the human element involved in this matter. Confining myself for the time being to the occurrences in East and West Punjab, which form the main subject matter of this part of our case, I desire to draw attention to portions of two letters which I have received from a young Sikh lawyer who, as a consequence of these happenings, had to move from West Punjab to Delhi.

He is a non-Muslim, but he is one of the displaced ones. He has had to leave his home. He is now in Delhi. From these circumstances the Security Council will be able to judge the feeling of the average person on either side. In his letter of 13 March 1948 addressed to me, he says:

"I have been reading with keen interest the proceedings of the United Nations. The latest is that Gopaldaswami Ayyangar is hopeful that you will give up the question of genocide. I do hope it is just wishful thinking on his part, and that you have no mind to do anything of the kind. No honest man should be interested in screening the enemies of humanity, whoever and wherever they happen to be. Gopaldaswami Ayyangar and Co. and leaders from Bengal and Karachi have only an academic interest in the happenings of the Punjab, perhaps not even that. Punjabis alone know what genocide means, because there is hardly a person who has not suffered directly or indirectly."

In his letter of 1 March, the young Sikh lawyer says as follows:

"I do hope that the United Nations is doing something useful and trying to bring about a conciliation between the two Dominions. What about the displaced persons of the East and the West Punjab? They are more than a *crore*" —a *crore* is 10 million—which is almost double the population of Jammu and Kashmir. "Have they not a right to go

back to their homes? Have they not a right to put their case before the United Nations and claim a redress of their grievances? The displaced persons are anxious to get back, except, of course, those who have improved their position by fair means or foul—mostly foul. Please consider the case of one *crore* of humanity and fight for them too, just as you are fighting for the rights of the people of Kashmir. The people want the guilty to be punished and the return of conditions that would enable displaced persons to go back to their original homes. In your speeches you have mentioned the case of such persons. Please see that this question is not shelved. The only solution of the displaced humanity is the one outlined by Mahatmaji and supported by Hazrat Kahfat. Your own views are the same. The majority of displaced persons have reached a stage where they consider that those killed in the riots were more fortunate than themselves. You can well imagine the rest."

In a letter published in the *Civil and Military Gazette* of Wednesday, 10 March, the following appears, also in a letter by a non-Muslim:

"Sir, one *crore* of refugees are displaced today. What about this one *crore* of suffering humanity? Whose concern are they? Who worries about them? None at present in the Indian Dominion. The only person who felt for them and who had the right solution—settling refugees in their original homes—and who was working toward that end, was Mr. Gandhi. Is there now no help, no hope? I think there is. The question has been taken up in the United Nations by Sir Mohammed Zafrullah Khan, representative of the Dominion of Pakistan. All honour to him. He is advocating exactly the same cause as the Mahatma did. Those people who have been compelled to leave their homes should be restored to them and conditions should be established in which they can live in peace and security without being subjected to any kind of discrimination. Sir Mohammed Zafrullah Khan said: 'Is it not a sad commentary on the Dominion of India that none from here has

carried or dared to carry on the noble task left unfinished by Mr. Gandhi? Has he left no spiritual or political descendants in India?"

"Sir Mohammed has raised the question of genocide in the East Punjab. Perhaps it would have been better and nobler for him not to confine the issue to the East Punjab, but then he is a lawyer representing one side only. Why should India fight shy of an open inquiry into the happenings of the East and the West Punjab? Let the world know the naked truth. The non-Muslims of the West and the Muslims of the East Punjab must combine on the spot and demand not only restoration of their homes, but also exemplary punishment of all those in power who, when their help was most needed, failed to give adequate protection to the minorities. The non-Muslims of the West and the Muslims of the East Punjab speak the same language—the language of sorrow and suffering. They are the people without a home. They must now make a common front and seek the aid of the United Nations."

This letter also was written from Delhi. That is the problem as it is presented today.

In part II of document S/646, we have said that the Security Council should appoint a commission:

"(a) To investigate the charges of mass destruction of Muslims in the areas now included in the Indian Union, to compile a list of the rulers, officials, and other persons guilty of 'genocide', and other crimes against humanity and abetment thereof, and to suggest steps for bringing these persons to trial before an international tribunal;

"(b) To devise and implement plans for the restoration to their homes, lands, and properties of Muslim residents of the Indian Union who have been driven out of or have been compelled to leave the Indian Union and seek refuge in Pakistan; to assist in the relief and rehabilitation of such refugees; to secure the payment to them by the Indian Union of due compensation for the damage and injuries

suffered by them; and to take effective steps for the future security, freedom and well-being of Muslims in India and for the protection of their religion, culture and language."

That, as has been remarked by this correspondent of the *Civil and Military Gazette*, is, or may sound, one-sided. It is not one-sided. The business of my Government, when it came to the Security Council to ask for redress, was to put forward the grievance that it had in this connexion and to ask for appropriate redress. But, as I have stated before and as I have stated this morning, Pakistan would welcome reciprocal investigation, arrangements and settlements for achieving the objectives that we have set out here.

After a stay of nearly four months in this great city, I am now compelled, having regard to the duties with which I have the honour to be charged in my own country, to take my departure. The delegation of Pakistan will continue to be continuously represented before the Security Council. We are extremely anxious and keen that these remaining matters should be settled as quickly as possible and that the matter of Kashmir should be expedited immediately. We believe that these three matters which we have raised may perhaps quite conveniently be committed to the same Commission which, no doubt, will have more than one principal delegate from each country on it and a certain amount of staff. Thus, while the plebiscite is being organized and held in Kashmir, the plebiscite in Junagadh, Manavadar, and Mangrol may also be organized and held; the implementation with regard to the delivery of military stores and telegraph stores may be supervised; some plan may be devised and put into operation to secure the restoration to their homes and properties of refugees from either side; compensation may be given to those who have suffered; and some scheme may be devised for bringing to trial and punishment those who have been guilty of these horrors and atrocities.

I am deeply indebted to the President and to the Security Council for the great courtesy and the indulgence that I and my delegation have received throughout the discussions. Pakistan is grateful to the Security Council for its devoted

labours on these questions with the single-minded purpose of arriving at some settlement which would clear out of the way these unfortunate differences which are, at the moment, dividing two Dominions which, having regard to their position, their economy, and their common interests in almost every field, ought to be the closest friends and collaborators.

I hope that the Security Council will continue its efforts and will, at least in this sphere which promises to be so hopeful, achieve their objective and thus demonstrate that the only hope of humanity with regard to peace and security in the future lies in the United Nations, of which the Security Council is the principal organ charged with the duty of maintaining international peace and order.

110. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 382 held on 25 November 1948

I apologize for asking to intervene at this stage. If I do so, it is not out of any desire either to prolong the discussion this afternoon in any manner or to do anything which might obstruct or delay the efforts of the Commission to secure a peaceful settlement of this dispute which has been pending so long. My desire is to draw attention to just one limited aspect of the problem which, if not adverted to at this stage, might contribute to causing the very obstruction and delay, and possibly even the failure, of the efforts on which the Commission is at the moment engaged.

In the first place, I should like to express my tribute and that of my Government to the anxiety, diligence and devotion which the Commission has brought to bear upon the very delicate and very important task upon which it has been engaged.

As the Chairman of the Commission has already intimated to the Security Council, the Commission has very recently handed to the representatives of the two Governments a set of what I might describe as proposals—very informal at this stage—which, in the view of the Commission, might enable the parties to bridge the differences between them which at the present moment are obstructing a settlement. In order that

those proposals may have a chance of being calmly considered and that there may be the maximum possible chance of their being agreed to as a basis for carrying the work of the Commission further, it is absolutely essential that the atmosphere between the two Governments should continue to be as unruffled as possible.

It will be recalled that, under the instructions of my Government, I have recently addressed a letter to the Security Council through the Commission. I followed the procedure of submitting that letter to the Security Council through the Commission for the very reason that, when I received the directions to present that letter to the Security Council, I knew that the Commission was then engaged upon the elaboration of those proposals which have recently been handed to the representatives of the two Governments, and I was therefore very anxious that nothing should be done which might in any manner interrupt or, as I have said, obstruct the very delicate stage of the work upon which the Commission was engaged. But that document, as the Security Council is aware, related to the actual military situation as it has recently developed on the front. No doubt, no one single phase of the military development is more directly concerned with the work of the Commission than the whole problem is; and, even in drawing attention to that, I wish to make it quite clear that it is not my desire in any manner to take any aspect of the problem out of the purview of the Commission, as it were, and to try to bring it before the Security Council. I should be perfectly happy if the Commission were to continue to deal not only with the aspects of the problem upon which it is at present engaged, but also with any *ad hoc* or urgent emergency questions that might in the meantime arise.

However, this particular situation is such that, if something is not done immediately, in some manner, to stop it from deteriorating and to stabilize it, the very efforts upon which the Commission is engaged might unfortunately prove fruitless. I am anxious to prevent that from happening and that has prompted me to ask permission to intervene in the discussion, at this stage.

The letter to which I have drawn attention, and which now is nearly a week old, sets out briefly the military situation as it has developed. I have since received further communications—one of which was handed to me at this table a few moments ago—which show that the delicacy of that situation is now indeed extreme, in the sense that the military situation has resulted in a large number of refugees from certain areas in Kashmir being actually on the march in order to reach and find safety in Pakistan areas.

The Chairman of the Commission has just informed the Security Council that his information from Sir Girja Shankar Bajpai is that the action upon which the Indian military is engaged is of a somewhat formal character, to secure one or two objectives in the field.

I am afraid that is not so. No doubt the Chairman of the Commission has been informed to that effect. I have got the material here on the basis of which, if it were necessary, I could substantiate by reference to chapter and verse that that is an entirely wrong picture of what is actually happening.

In the first place, the very increase of the numbers and the armour on the Indian side indicates that that is not so. But apart from that, look at two aspects of it. The main military action is being taken in two areas.

First of all it is being taken in the South, where during the last few days, an advance of at least fifty miles has been made, resulting in the occupation of over one thousand square miles of area populated entirely, down to the last individual, by Muslims, at least fifty thousand of whom—as I have already submitted—are on the march towards Pakistan and a minimum of another fifty thousand have been cut off by the advance of the Indian Army and prevented from reaching Pakistan. That does not show that the action taken is one of a purely formal kind aimed at correcting a situation that might have arisen, even if by any stretch of imagination the Indian action could be so described. The situation that is sought to be corrected in that sector, has been in existence for many months.

In the Ladakh area in the North, the advance amounts, by this time, to at least fifty miles, although there—the area being sparsely populated—such large numbers of the actual population are not concerned. But that advance has cut off a certain number of Azad troops. If action of that kind can be called purely corrective, on the other hand it might be taken as an attempt to secure a release of those troops that have been cut off.

The situation is bound to continue deteriorating. This morning's issue of the *Continental Daily Mail* contains an item of news which I found very distressing from the point of view of the chances of reaching a peaceful settlement of this very important but delicate question between the two Dominions. It is said there that artillery duels had taken place all along a line between Tithwal and Jhangar in West Kashmir. That is practically the whole line, in the South, along which troops are facing each other.

If nothing happens almost immediately to prevent, in some manner, the further deterioration of this situation, one of two consequences is bound to follow.

On the one hand, Pakistan may be compelled to oppose this all-out effort by an all-out effort on its own, which would mean a complete flare up on all fronts. I may remark parenthetically that during the first half of May, Pakistan, as the result of similar action then taken by the Indian military forces had to send in its troops to halt the Indian forces at certain points beyond the Pakistan borders to stop streams of refugees that had started pouring into Pakistan, and to protect certain Pakistan interests inside Azad territory, for instance, the Mangla Head Works, which feeds one of the main irrigation canals of West Punjab.

Up till now, during the six months that have elapsed, since the entry of Pakistan troops into the State, Pakistan has altogether refrained from using either its armour or its air force in the hope that such defensive action that it had to take would continue to be limited to the two objectives that I have pointed out. Pakistan has so far shown great restraint, but during the last week, the situation has been such, and has

rapidly developed in such proportions that Pakistan cannot afford to continue to look on and let the situation go on deteriorating. We are passionately anxious that a way should be found for the peaceful settlement of the problem, but we cannot overlook the situation as it is actually developing on the spot.

If, while efforts are being made to find a peaceful solution—and we are co-operating with the Commission to find such a solution and, as I have said, we hope nothing will be done which will in any manner handicap the progress of the negotiations that are now underway as the result of the proposals recently made by the Commission—the military situation on the spot leads to a full-scale conflict between the two countries, then the Security Council can itself appreciate what chance will be left of reaching a peaceful settlement. That is one consequence that might flow from the unfortunate situation that has developed.

The second consequence may be that if Pakistan merely continues in a defensive role, as it has done so far, then, shortly, no scope may be left for any kind of peaceful settlement of the problem.

India has, from the very beginning, been anxious to score a military decision in Kashmir. When that is achieved, no scope will be left for any settlement by mutual discussion, or any agreement on a scheme for a peaceful solution to this problem. I appreciate the observations that have fallen from the lips of some members of the Security Council that the problem should continue to be dealt with by the Commission—and I heartily endorse these observations. There is no other way of dealing with the problem and in any case, the Commission has reached a stage when it is within sight of a possible settlement by peaceful means. The Council or the Commission, as the case may be, are under the urgent necessity of first adverting to this question: what is to be done to stabilize the military situation? If it is correct—assuming that it is—as has been reported by the Chairman of the Commission and by Sir Girja Shankar Bajpai, that the action taken by the military forces of India in the State was only of a formal or a corrective nature, in spite of

the serious deterioration of the situation which has already taken place, why should there now be any difficulty—that action having been taken, and taken more than completely successfully, whatever the objective may have been and having resulted in a situation which is likely to prove another serious jolt to the economy of Pakistan as the result of the refugee problem—why should there be any difficulty in reaching an understanding that things should stay as they are until the Commission's proposals have had a chance of being calmly discussed and, let us hope, accepted by the parties, so that the solution of this problem along peaceful lines may be achieved?

As I have said, the military situation is very dynamic. I have just received a telegram from Karachi with regard to the latest military developments. The telegram relates only to one sector, and one single item will show the Security Council how delicate the situation is.

Following the capture of Mendhar, in the Poonch sector, the telegram states the following:

"Fifty thousand refugees are reported cut off. Large numbers of additional refugees with sheep and cattle are moving westward. Further reports of Royal Indian Air Force attacks on them."

Compare this with the second telegram. That telegram stated, as I have already said, that fifty thousand refugees were already on the move from this area towards Pakistan. This means that large numbers of additional refugees with sheep and cattle are moving westward, that they are being attacked from the air, and that fifty thousand refugees on the other side of the line established by the Indian military forces have been cut off.

The telegram adds:

"Indian broadcasts on 24 November described operations as 'more or less offensive' and laid much stress on the welcome which the Indian Army received from Muslims in the liberated areas."

I do not want to raise the purely technical point of whether Sir Girja Bajpai was or was not accurate in describing the

situation to the Chairman of the United Nations Commission as being merely corrective. But what I want to do, with all the earnestness that I can command, is to submit that whether the action is described as corrective or defensive or offensive, that is the situation, and, if the situation is allowed to continue as it is, the members of the Security Council can themselves visualize the alternative with which the Pakistan Government and even the United Nations Commission would be faced.

I hope that the members of the Security Council will forgive me for my intervention. I do not wish to prolong the discussions or my submission to the Security Council, but if it would be considered necessary that I should submit any material, I have it all here. I have described what the situation is. It threatens on the one hand to blow up into a full scale conflict, with consequences which are too terrible to imagine, or, on the other, to render absolutely futile and fruitless the very diligent efforts upon which the Commission is now engaged to bring about a solution of the dispute.

*111. Text of the Speech made by Sir Girja Shankar Bajpai
(India) in the Security Council Meeting No. 382 held
on 25 November 1948*

Coming as I do to the table of this august Council for the first time, it is not unnatural that I should feel somewhat over-powered by the sense of my responsibility. The Security Council has power and it has authority. I hope that it will extend to me the indulgence and the patience that are due to a newcomer.

Before I deal with the military aspect of the situation and its implications as they have been described by the representative of Pakistan, I should like to associate myself with what he has said, and with what other members of the Security Council have said, regarding the very important work which the United Nations Commission on India and Pakistan has already accomplished.

You may remember that when the Security Council adopted its resolution of 21 April, objections were raised to that resolution by both sides. I think I am betraying no confidence

when I say that the Commission was somewhat nervous of the reception which might be accorded to it when it reached the Indian sub-continent. I am happy to say that we lived up to our tradition of courtesy to all visitors, and I am even happier to record that our relations with the Commission were of the friendliest and very best. So long as that Commission continues to strive in a spirit of earnestness and energy to achieve a peaceful settlement of this unhappy dispute between us and Pakistan, so can it also count upon the co-operation of the Government and people of India.

The representative of Pakistan has referred to some statements which I made to the Chairman of the Commission, Mr. Lozano, a few days ago, about the military situation. These observations of mine were made on information which had reached me before I received the text of Sir Zafrullah Khan's letter to the Chairman of the Commission, in which he gives details of our military action, of the strengthening of our forces and of our military objectives. If I may venture to correct what the representative of Pakistan said, I did not say that the military action which the Government of India had taken in Kashmir was of a formal character. What I did say was that it was of a defensive character and that no major offensive had either been launched or was contemplated.

I wish, as much as the representative of Pakistan, to avoid saying anything that might make the task of conciliation more difficult, because we are believers in peace in India just as, I am sure, our friends on the other side are anxious to find a peaceful settlement. I wish to avoid any recrimination and I wish to say nothing that may adversely affect the activities of the Commission.

However, since a suggestion has been made that we even now are acting aggressively, it is only fair that I should draw the attention of the Security Council to certain facts. The first of these facts is that since May, according to the statement that the representative of Pakistan made to the Commission of the Security Council, and perhaps somewhat earlier according to our own information, Pakistan forces have been and still are on the territory of Jammu and Kashmir, which we regard as Indian territory.

In all our statements before the Security Council, we made it clear that we reserved to ourselves the right of self-defence, the right of expelling from our territory those who had no right to be there. However, the fact remains that, unlike what has been suggested just now—namely, that Pakistan's troops were on the territory of Jammu and Kashmir purely in a defensive role, and not playing any active military role at all—I should like to say here and now that for months past—and the Commission was in India, and we made this clear to the Commission, at the time—Pakistan forces, as also the forces of Azad Kashmir which are under the operational control of the Pakistan High Command, have been attacking our positions in the North, in the West, in the South. The representative of Pakistan has said that this was containing action. Well, I am not a military expert, and I do not know how one differentiates between a containing action and an offensive action. My own view is that, if you are fighting somebody on his own territory, that is not containing action; it is offensive action. However, I do not wish to pursue that point any further. What I want to say is that the recent operations, both in Ladakh and in the Poonch area, have had the limited defensive objective of protecting the Valley of Kashmir against attacks from the North East, of relieving pressure on Leh in the Ladakh Valley, and of generally safeguarding our military situation in that part of Jammu and Kashmir.

Turning now to the South, our information—and this is not based on what I told the Chairman of the Commission the other day, but on later information—was that the encircled garrison which we maintained in Poonch—and, under the protection of that garrison, thousands of refugees from other parts of Kashmir—that that garrison and its civilian population were being subjected to an intensified effort for to establish a stranglehold which would have made it impossible for us to supply either our garrison or the people under the protection of that garrison. The action which we have taken, including the capture of Mandhar, to which the representative of Pakistan referred has been designed exclusively to keep the supply line and the road to Poonch open.

A suggestion has been made that we have reinforced our air forces. I have it on the strength of a telegram received from my Government only this morning that no addition has been made to our air force in Jammu and Kashmir.

In the second place—and I am referring now to the letter which Sir Zafrullah has addressed to the Chairman of the Commission [S/1087] and which we are now considering—it has been suggested that we have considerably reinforced our land troops or the army in this area.

Now, over a period of two months, all we have done is to send five thousand troops, partly for purposes of replacing old garrisons and partly in order to assist in the defensive action in Ladakh and in the Poonch area, as I have just tried to describe to you. Anything in the nature of new brigades or divisions, as mentioned here, have certainly not been sent to Jammu and Kashmir at all. The mention of brigades is possibly based on some misunderstanding of what is a purely organizational step—namely, the establishment of brigade headquarters for the old troops which happen to be in Jammu and Kashmir.

To repeat what I said when I started, though we maintain the right to exert all our military resources to rid Jammu and Kashmir of outsiders, actually we have started no major offensive; we are not contemplating any major offensive; we are anxious, as our friends on the other side are anxious, and as members of the Council are also, that nothing should be done to make the situation difficult from the point of view of negotiating a friendly settlement.

I do not think that it is necessary for me to expatiate at any greater length on the military situation. I have given you the facts which my Government have furnished to me in reply to the enquiries that I made after receiving Sir Zafrullah Khan's letter to the Chairman of the Commission.

The Chairman of the Commission said that he has been in communication with us and in communication, I believe, with the representative of Pakistan regarding the possibilities of further negotiation. I should only like to say that the informal proposals of principle regarding a plebiscite, which were handed to me, have been communicated to my Government. They were

handed to me on Saturday. They were communicated to my Government by telegram on Sunday morning. They are important proposals; there has not yet been sufficient time to receive instructions from my Government. However, it is certainly my intention to do what I can to explore the possibilities of some kind of renewed and formal negotiations with regard to this particular matter. This I say not with any commitment either on my own part or on the part of the Government of India, but as an index of our desire to make the fullest possible use of the good offices of the Commission for the purpose of reaching a friendly and amicable settlement.

The representative of Pakistan said that it has been the purpose of India from the very beginning to achieve a military decision. I wish to say that: Since we invoked the good offices of the Security Council to help us in settling this matter amicably, we have not tried to achieve a solution by the sword, and we are not trying to do it now. We still have the fullest faith in the United Nations, and we are desirous of a friendly and peaceful settlement. I would, however, permit myself to say that, if we are told, as we are told in this letter, that because of imagined offensive and alleged hostile intentions of the Government of India, there is going to be a fresh effort by Pakistan in the sense of a counter-offensive, we must in these circumstances naturally exercise the prerogative that belongs to every Member of the United Nations; the prerogative of self-defence.

I hope that the representative of Pakistan will not misunderstand me if I say that, perhaps on the basis of inaccurate or incomplete information, he has tried to present us in the light of what has been best expressed in a couple of French verses:

*"Cet animal est tres mechant,
Quand on l'attaque, il se defend."*

We have done no more than to try and defend our position without prejudice to a friendly solution by negotiation and, certainly, with no desire whatsoever to impede the work of the Commission which the United Nations has appointed.

112. Text of the Speech made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 382 held on 25 November 1948

I have no desire to start a controversy over anything that my friend, Sir Girja Shankar Bajpai, has stated because it would be very inept at this stage to take up a statement sentence by sentence and to say how much one agrees with it and how much one differs with it.

I have submitted to the Security Council the picture of the military situation, and my friend on the other side has made his comments on it. The actual situation, the Security Council will perceive, is no different from what I described it to be. What are the apt words to describe it? It may be a matter of difference, of controversy between the representatives of the two Governments. I do wish to say this: it is not somewhat curious, to say the least, that whereas Sir Girja Shankar Bajpai seeks to assign the offensive role to Pakistan, it should be Pakistan which is anxious that the fighting and the killing should come to an immediate stop. Is it ever the desire of a party taking the offensive role, and wishing to carry it to completion, to be keenly anxious that fighting should come to an end?

As I have said, I will enter no controversy as to what is the particular appellation which might fitly describe what has been happening during the last week or so, particularly in the military sphere. Call it by whatever name or expression it might please the Council or might please the representative of India, intensive fighting has flared up. Of course, when there is a fight, both sides have to participate in it; but apart from the fighting itself, which results in killing and destruction, large numbers of people are subjected to a great deal of privation, destitution, misery, leaving of their homes, and so on.

If it is true that, whatever the legal position may be,—and the Security Council knows well that the two sides differ on the appreciation of the legal position—India regards Kashmir as part of its territory as a result of the accession which was attempted last year, Pakistan has never accepted that position. But whatever may be the legal implications of the situation, and

whatever rights each side may reserve to itself of sending troops, of carrying on the fighting and to trying to exclude the other side from the territory of Kashmir, at least in order to provide the best chance and to afford a peaceful atmosphere for the consideration of the proposals now before the two Governments, the fighting, the killing, and the migrations of people should be stopped, if not permanently, at least temporarily.

They say they have no aggressive designs, at least for the time being, until every avenue of a peaceful settlement has been explored and investigated. We say that we have had no aggressive designs from the very beginning, whatever our legal position may be, because, from the very beginning, we have not recognized the validity of the accession at all. If that is so, if each side is sincere in its declarations to the Security Council then what difficulty is there in stopping the fighting—I assure the Council that that can be done before the sun sets tomorrow—and letting the Commission carry on its extremely valuable efforts in a peaceful atmosphere, since that is the only chance of bringing about some kind of peaceful settlement of this dispute, and thereby preventing further exacerbation of the situation?

On the eve of its departure from the sub-continent of India and Pakistan, the Commission made an appeal to both sides, an appeal of which the Council is aware, not to take any action which might worsen the situation. Within the last few days it has repeated that appeal to both parties, requesting that nothing should be done on the political or military side which might further exacerbate the situation. They have already taken the step of drawing the attention of the Secretary-General to the request made as early as July for the appointment of a military advisor to the Commission. No doubt that request is receiving the attention of the Secretary-General. These measures ought to be encouraged rather than obstructed.

As I have said, I have no desire to start a controversy on the appreciation of the military situation. Let the appreciation of my friend on the other side be accepted, but even if that is done, at least while these proposals are being considered and have any chance of being accepted by either side, why should there not be a cessation of the fighting? Once those proposals

are accepted, though they are based on certain principles which for instance will require details being worked out,—and that could be done in the later stages—the truce proposals will then immediately come into operation, and those truce proposals, as the members of the Council are aware, involve and require the withdrawal of all Pakistan forces and that has been agreed to by the Pakistan Government.

The controversy that arose and stopped the progress of the work that the Commission was then doing arose over the third part of the Commission's resolution that is as to what was to happen after the truce. There was no trouble with regard to the cease-fire or the truce itself. The Commission is now engaged upon formulation of its plebiscite proposals, so that if the cease-fire could provide an opportunity allowing these proposals to be calmly considered and for some principles to be accepted by the two sides, the truce would come into force at once. And then India would have gained the point on the military side to which it attaches a great deal of importance. The subsequent stages of the agreement arrived at could then be worked out.

In submitting this letter to the Security Council as I was directed to do by my Government, I have had no other purpose whatsoever in view except that something should be done so that this constant irritation and inflaming of feelings, not only between the two Governments but also between the two peoples and between the Press of the two Dominions, should be brought to an end, and so that the efforts made towards a peaceful settlement should have some chance of succeeding.

Therefore, I have no desire either to controvert the statement made on the other side, or to make debating points on this side, or to try and show that it is correct, or that it is not, proving that we were not to blame in this situation. This is no occasion for that. My appeal is a simple one: that without prejudice to anything else and with the sole desire of carrying forward the work of the Commission, something may be arranged which should stop the further deterioration of the situation on the spot.

You may call the Indian military action "defensive", but it has resulted in thousands of people being rendered not only

homeless, but having to make a long and difficult trek in order to reach security. It may be that they are unreasonably afraid. But it must be fear of a very grave character which compels a person to leave his own home and hearth, however modest, however humble, or on however poor a scale it was being conducted, in order to make the difficult journey and to become a stranger in a comparatively strange country. Well, that is happening on a very large scale. At least that would be stopped. The further deterioration of that situation would be stopped.

What difficulty stands in the way of the attainment of that at least? The request to the two Governments, the direction to the two Governments, the order, if you so choose to call it to the Governments, in that respect, may come from the Commission or may come from the Council; it is immaterial; but our object is that if anything has to have a chance of success, the deterioration of the military situation must be stopped. Otherwise, as I have said, one or two of the very grave and most regrettable consequences are bound to ensue. There is no threat from either side. No threat has been expressed by us; none has been expressed by the other side. There is a certain amount of difference with regard to the descriptions to be applied to the situation. But there is agreement on this, that India took certain military actions in order to achieve certain objectives. We differed with regard to the character of the action taken. This is what has happened. We cannot reverse it. We are not asking the Security Council or the Commission to take steps to reverse that, but let us at least stop the further deterioration of the situation which would result, one day or the other, in something that would be disastrous from every point of view.

*113. Text of the Speech made by Sir Girja Shankar Bajpai
(India) in the Security Council Meeting No. 382 held on
25 November 1948*

I should like to begin by saying that nothing was further from my intention when I spoke last, than to say or do anything which would make the existing situation worse, and I hope that I succeeded substantially.

The representative of Pakistan has said that he would abstain from picking a point here or there, in a spirit of controversy, to refute what I have said. I wish to assure him that what I said was not said in any spirit of controversy at all. Since the military situation in Kashmir had been referred to, in fairness to the Council and also to my Government, I had no option but to explain the circumstances which led up to that military situation.

The representative of Pakistan is concerned—and if I may say so, rightly concerned—over a situation in which men are being killed, maimed and wounded. It is not a situation in which we rejoice; it is not a situation which we desire; it is not a situation which we wish to continue. The members of the Council will have by now, I hope, read, marked and inwardly digested the report of their own Commission. That Commission sets out a resolution which it presented to both Governments, the resolution of 13 August which provides for a cease-fire, which provides for a truce, which provides for consideration of the conditions of a plebiscite. Did India decline to accept that resolution? No. Does India decline to accept that resolution now? No. Having accepted once, that acceptance stands. Might I suggest to the representative of Pakistan, in a spirit of conciliation and friendship, that perhaps he has second thoughts and his Government has second thoughts regarding the acceptance of that resolution.

I venture to suggest that parts one and two of that resolution contain material by which the object that he has in view and I have in view—his Government and my Government have in view—namely, a cessation of hostilities, can be achieved. Those two parts contain provisions which are fair to both sides; by their acceptance the very desirable and humane objective of a cessation of hostilities can be quickly attained.

114. Text of the Speech, made by Sir Mohammed Zafrullah Khan (Pakistan) in the Security Council Meeting No. 382 held on 25 November 1948

With reference to what the representative of India has said towards the end of his remarks, I would beg to submit that that has a tendency of opening a controversy on the merits of the question now pending before the Commission.

The representative of India has said: We do not decline to accept the resolution of 13 August. Equally, and with complete justice, I might submit, we did not decline to accept the resolution of 13 August either. The resolution of 13 August provided for a cease-fire in part I, for a truce agreement in part II, and, with all respect to the Commission, if I might so describe it, a somewhat indefinite proposal in part III with regard to what would happen after the truce. It was with regard to that part that Pakistan put forward its proposal.

As the Council is aware, both sides had certain objections to the Security Council's resolution of 21 April. The Pakistan objections were put forward; the Indian objections were put forward; and the position which we took up before the Commission was that if the two sides continued to make demands on the basis of their objections with regard to the conditions which would secure a fair and impartial plebiscite, no progress would be possible after the truce. Therefore, what we put forward was that modifications of the Security Council's proposals contained in articles 6 to 15 of the resolution, or additions to them, might be possible, but could only be possible—as the Commission agreed—by agreement of the parties and the acceptance of those modifications or amendments by the Commission. And we said that the only way to make progress in that respect was for the two Governments to agree that the conditions for a fair and impartial plebiscite would be those laid down by the Security Council—even though each side had objections to them—subject to additions and modifications which might be agreed upon. That is the only condition that the Government of Pakistan put forward.

It took no objection to the proposals contained in the first and second parts. The issue had been clarified to the Pakistan Government in certain respects by the Commission. There appears a second condition in our reply to the Commission, but it is only a nominal condition. Certain clarifications and elucidations had been given to us and, as the Commission had been discussing its proposals on an equal basis with both Governments, it was possible that certain clarifications had been given to the Government of India. It subsequently appeared that clarifications had in fact been given, and our second

condition was only to the effect that the clarifications and elucidations given to each side should be communicated to the other side and should be acceptable to it. This was inherent in the very nature of the negotiations themselves—it was not a condition.

The only condition that we put forward was that in default of any additions or modifications, or subject to any conditions or modifications which might be agreed upon, both sides should accept paragraphs 6 to 15 of the Security Council's resolution of 21 April. I am not seeking to raise a debating point; this is not a matter which we wished to raise here, it is not a matter which has urgency today. Ever since we had the honour of welcoming the Commission in Karachi on 7 July, we have been at all times not only agreeable but anxious to put an end to the fighting on the basis of an immediate cease-fire. We have never at any time put conditions upon that proposal or showed any hesitation about it.

The conditions of the truce as laid down in the second part of the Commission's proposals of 13 August are in themselves not a matter of objection to us. All that we have insisted upon is that there should be some kind of agreement, at least in principle, between the two Governments as to what is to happen after the truce, namely, that a fair and impartial plebiscite should be held and that the conditions should be such as would ensure a fair and impartial plebiscite.

I am prepared to agree here and now, once again, that if the Government of India is prepared to accept paragraphs 6 to 15 of the Security Council's resolution of 21 April—to which they had some objections and to which we had some objections—subject to any conditions or modifications which may be arrived at with the help of the good offices of the Commission, the whole matter can be settled now, before this meeting of the Security Council adjourns. There may be some difficulty in the way of the Government of India which prevents it from doing that. Again, I am not seeking to score a debating point; the difficulty may be very real and I am not trying to force it into that position at all; these things have to be ironed out. But I submit that we are ready and always have been ready for an

immediate cease-fire without imposing any conditions upon anybody. Then, once the further conditions or principles are agreed upon, the truce proposals can come into effect and the preparations for a plebiscite can be taken in hand so that the whole thing can be settled. That is our position and has been all along.

115. Text of the Speech made by Mr. Korbelt (Chairman of the United Nations Commission for India and Pakistan) in the Security Council Meeting No. 399 held on 13 January 1949

May I be allowed to say on behalf of the Commission that it feels highly honoured to appear today before the Security Council to present its second interim report. The first interim report [S/1100] was presented to the Council on 25 November 1948 and covered the period of the Commission's activities in the sub-continent. The second interim report covers the Commission's work in Geneva, in Paris, and at Lake Success to the present date.

Members of the Security Council will remember that on 13 August last year, when in Karachi, the Commission passed a resolution consisting of three parts, which appears in its first interim report [S/1100]. In part one it asked the Governments of India and Pakistan to stop fighting; in part two it proposed certain principles for a truce; and in part three it expressed in general terms its conviction that the future status of the State of Jammu and Kashmir should be decided by the free will of the people of that State.

The Government of India signified its acceptance of the Commission's resolution, and the Government of Pakistan attached to its acceptance certain conditions regarding mainly the question of conditions under which the plebiscite should be held in the State of Jammu and Kashmir.

On the basis of this, the Commission, when in Paris, suggested that two representatives of the Governments of India and Pakistan should take part in conversations regarding the conditions and the basic principles which should govern the holding of the plebiscite. Both Governments responded to this suggestion affirmatively. Thus, the Commission held several informal

conversations with the representatives of India and Pakistan, these conversations being held partly by the Commission as a body and partly by individual members of the Commission.

These conversations led the Commission to formulate its final proposals, which were communicated to both Governments on 11 December. In the Commission's communication it was stated that the Commission hoped that those proposals would be accepted by both Governments in their entirety.

The main points of those proposals were: that the accession of the State of Jammu and Kashmir would be decided by way of a free and impartial plebiscite; that the Secretary-General of the United Nations would nominate, in agreement with the Commission, a plebiscite administrator who would be a person of high international standing and who would derive from the Government of Jammu and Kashmir the powers which he considered necessary to organize and conduct a free and impartial plebiscite. The Commission further proposed that all human and political rights should be re-established and guaranteed; that the return of refugees should be organized by two commissions to be nominated by the Governments of India and Pakistan respectively; that the question of the final disposal of the armed forces which are in the State of Jammu and Kashmir should be solved by the plebiscite administrator and the Commission in consultation with both Governments and the competent authorities; finally, that the plebiscite administrator should report the result of the plebiscite to the Commission and to the Government of Jammu and Kashmir, and that the Commission should inform the Security Council whether the plebiscite had been free and impartial.

The Commission put these proposals before the two Governments and decided to send one of its members to the sub-continent so that he might place his services at the disposal of both Governments, if any clarification or interpretation of the Commission's proposals were needed.

The representative of Colombia, Minister Lozano Agudelo, accompanied by his alternate, Mr. Samper Gomez, and the personal representative of the Secretary-General paid a short visit to both capitals and held several conversations with officials

of the Governments of Pakistan and India. In view of the clarifications which Minister Lozano offered to both Governments, I am highly privileged to announce that both Governments have accepted the Commission's proposals and, on the basis of these, have declared the cessation of hostilities in the territory of the State of Jammu and Kashmir as from 1 January 1949.

The Commission reconvened on 5 January at Lake Success, where the report of Minister Lozano Agudelo was considered and approved, where the second interim report to the Security Council was elaborated and approved, and where a resolution was adopted embodying the proposals accepted by both Governments. The Commission then resolved to return to the sub-continent in the immediate future.

If the Commission has succeeded in the first stage of its work, it is only thanks to the Governments of India and Pakistan. The Commission has been working on these proposals in Paris in close contact with the representatives of both Governments, who have offered the Commission all possible help and assistance; and thus they have given proof of their desire to solve the problem of Kashmir in a peaceful way.

The Commission will return in a few days to the sub-continent in order to work in close co-operation with the two Governments on the implementation of part I and part II of its resolution of 13 August, and, at a later stage, it will elaborate the details of the Commission's proposals. The Commission sincerely believes that on returning to Lake Success it will be able to report to the Security Council that it has carried to a happy conclusion the honourable mission which has been bestowed upon it.

116. Text of the Speech made by Sir Benegal Rama Rau (India) in the Security Council Meeting No. 399 held on 13 January 1949

May I first, on behalf of my Government, express appreciation of the very generous references made to the efforts of my Government to reach a satisfactory compromise with regard to this very difficult problem. I should also like to associate myself

with the tribute paid by the President to the members of the Commission for the success they have had in the first and most difficult step towards the establishment of peace between India and Pakistan. Everyone knows of the formidable difficulties with which they were faced, and this great achievement has revived the faith of many people in the utility and effectiveness of the Security Council and of the United Nations generally.

India has also demonstrated its faith in the United Nations by going very far to achieve this result. I am sure that this effort to reach agreement by peaceful methods will be an encouragement to all those who have attempted to reach satisfactory agreements in other spheres, in other parts of the world.

I should also like to take this opportunity, if I may, to thank the President personally for the part he has played in this matter. I do not wish to single out any particular member of the Security Council, but I should like to mention the great part played by the representative of China and his efforts to reach a satisfactory agreement. The consequences of all this are extremely important not only from the point of view of India and Pakistan, but also from the point of view of the whole of Asia because the future of Asia depends, to a large extent, on the friendly relations established between those two countries, and because, to some extent, those two countries are great stabilizing forces in Asia today. They inherited a well-ordered system of government from the British, and this administration has played a great part in maintaining law and order in the south of Asia.

I do not wish to make this an occasion for a lengthy speech. I shall only conclude by presenting my best wishes to the Commission for the further efforts they are likely to make at attempting to reach a satisfactory settlement of this very difficult and complicated problem. On behalf of my Government, I can give the assurance that it will not only co-operate to the utmost with the Commission itself towards a settlement in Kashmir, but also with the United Nations in securing peace everywhere, because it believes that this Organization offers the only hope for peace for future generations, on a secure basis.

117. Text of the Speech made by Mr. Shaffi (Pakistan) in the Security Council Meeting No. 399 held on 13 January 1949

When I came to this meeting, I was not aware that I was to be given the privilege of speaking before the Security Council.

I should like, however, to take this opportunity to associate myself with the remarks of the President and the representative of India. I believe that it is impossible to overestimate the work which has been done by the Commission. I believe that the Commission's work may quite well be a milestone in the history of the United Nations. My Government has always desired and hoped most earnestly that this question would be settled on an amicable basis. I believe that, thanks to the Commission's sterling work, there is every reason to look forward with optimism to the settlement of this whole dispute. Much still remains to be done, of course, and my Government hopes that the details of the carrying out of the agreement will be worked out so that the people of Kashmir may be firmly convinced that a free, unfettered and impartial plebiscite has been held. That is the earnest desire of my Government. It is for the people of Kashmir and Jammu, through the auspices of an impartial plebiscite, to decide for themselves in accordance with the democratic way of life whether they wish to accede to India or to Pakistan.

I think there remains little more to say except to thank the Security Council for its forbearance in this matter. I know that the arguments have on occasion dragged on almost interminably, and I think the patience of the Council has sometimes been strained almost to the breaking point. I also know that, on occasions, the work of the Commission has been hard and arduous; but its tenacity and good faith all round have undoubtedly contributed largely toward bringing us to the stage which we have now reached.

On the invitation of the President, Mr. Samper, Chairman of the United Nations Commission for India and Pakistan, took his place at the Security Council table.

The President: As agreed on 13 December [456th meeting], we shall employ simultaneous interpretation for all statements

made either by members of the Council or by other representatives, and shall use consecutive interpretation only for procedural matters and when we come to a vote on any draft resolution which may be submitted to the Council.

118. Text of the Speech made by Mr. Samper (Chairman of the United Nations Commission for India and Pakistan) in the Security Council Meeting No. 457 held on 17 December 1949

I am honoured to represent the United Nations Commission for India and Pakistan before the Security Council and, on behalf of the Commission, I wish to express our appreciation for the Council's reception.

The members of the Security Council will recall that, when the Council received the Commission in Paris in November 1948 [382nd meeting], conversations were underway looking towards an agreement between the Governments of India and Pakistan on the principles relating to a free and impartial plebiscite in the State of Jammu and Kashmir, and that the result of these conversations was subsequently embodied in the Commission's resolution of 5 January 1949 [S/1196, paragraph 15].

The Security Council is aware that the Governments of India and Pakistan, on their own initiative and before the Commission had reached the Sub-Continent again, made the cease-fire order effective as of 1 January 1949. The Commission is pleased to report that the high commands of the Indian and Pakistan Armies made every effort to avoid incidents and violations of the cease-fire during the very difficult time when no line as such existed, and that it was due largely to their attitude of conciliation and understanding that the military conference in Karachi in July of this year led to the agreement on a line. The task of demarcating the line was achieved through the assistance of United Nations military observers under the Commission's military adviser. The immediate and vital objective of the Security Council—namely, the cessation of hostilities in the State of Jammu and Kashmir—has thus not only been achieved, but

ensured, through the co-operation and the good will of the two Governments.

The Commission, unfortunately, cannot inform the Security Council that substantial progress has been made in the implementation of the succeeding parts of the Commission's resolutions of 13 August 1948 [*S/1100, paragraph 75*] and 5 January 1949. After eight months of negotiations, the Commission has deemed it advisable, having in mind the importance of continuing an active movement towards a solution of the problem, to refer the matter back to the Security Council. We believe that the parent body will more easily find means for making the adjustments and modifications which today have become necessary for the execution of the commitments and agreements entered into by the two Governments.

The Commission's third interim report [*S/1340 and S/1430/ Add. 1 and Add. 2*] has been before members of the Security Council for several days now, and I do not believe it will be necessary to take up the time of the Council by going into a lengthy expose of its contents. Members of the Council are aware that, throughout eight months, the Commission endeavoured to mediate the differences which existed in the way of implementing part II of the first resolution dealing with the truce and principally concerned with the withdrawal of troops [*S/1100, paragraph 75*]. The Commission maintained direct contact with the two Governments individually in New Delhi and in Karachi. It instituted sub-committees. It drafted truce terms of its own, which were presented to the two Governments and which, in the light of the response of the two Governments, were modified in so far as this was possible, keeping in mind the framework and the principles which were our guides. The Commission also suggested a joint political meeting which the two Governments for the purpose of reaching agreement on the truce; this meeting was subsequently cancelled by the Commission. Finally, in a last endeavour, the Commission asked the two Governments if they would be willing to submit to arbitration the differences arising between them as regards the implementation of part II of the resolution of 13 August 1948.

The third interim report endeavours to set forth objectively, impartially and comprehensively the reasons for the unsuccessful outcome of the negotiations, which cover the period from February to September 1949. It has been the Commission's intention to show how the strict letter of previous commitments has become more and more rigid in a changing and dynamic situation, and how questions which, in the light of the over-all problem and of the objective pursued by the two Governments and by the United Nations in the dispute, might be considered as of lesser importance have, in fact, impeded positive action on the part of the two Governments, in spite of their desire to proceed to a settlement.

The facts of the case are clear. The main issues stand well defined. The Commission believes that three of these issues are the most important: first, the withdrawal of troops from the State, which is essential for the creation of conditions for a free and impartial plebiscite; secondly, and closely linked, the disposal of the *Azad Kashmir* forces in the western part of the State of Jammu and Kashmir; and thirdly, the administration and defence of the northern areas of the State.

With this information at hand, gathered from the past experience of the Commission, it is our hope that future action under the auspices of the United Nations and with the co-operation of India and Pakistan may be facilitated. Should this prove to be the case, the Commission will then have served an important and useful purpose in furthering the solution of this dispute.

In the conclusions of the report, the Commission has described the spirit which animated it in drafting that report. It also has expressed the belief that the present pattern, as it stands, is outmoded and unsuited in respect of questions of timing and method, and that this pattern should be made freer and more ample for mediation to be effective. The Commission is of the opinion that a single individual can now more expeditiously undertake what might be termed the third phase of the Kashmir dispute. It has so recommended to the Security Council and hopes that consultations with the representatives of India and Pakistan will take place to this end.

I have the privilege formally to present for the consideration of members of the Security Council the third interim report of the United Nations Commission for India and Pakistan. The report was prepared in Geneva and was signed there by four of the five members: the representatives of Argentina, Belgium, Colombia and the United States of America. The representative of Czechoslovakia reserved his position at the time of discussion of the report until a later date. At a meeting of the Commission held yesterday afternoon at Lake Success, the representative of Czechoslovakia presented his delegation's minority views. [S/1430/Add. 3].

Before concluding these brief remarks, may I express the Commission's gratitude to the Governments of India and Pakistan for the courtesy, consideration and warm hospitality which they have extended to the Commission during its stay on the Sub-Continent. We are convinced that both Governments wish to find a peaceful and a final solution of this dispute and that it is the intention of the Governments of India and Pakistan to continue to co-operate with the United Nations for this purpose.

The Commission and its Rapporteur, the Belgian representative, of course remain at the disposal of the Security Council and its President.

119. Text of the Speech made by Sir Benegal N. Rau (India) in the Security Council Meeting No. 463 held on 7 February 1950

I should like briefly to explain the position of my Government with respect to the proposals submitted by General McNaughton to the parties on 22 December 1949, and subsequently laid before this Council.

I hope that my criticism of the proposals will not be construed as a reflection on their distinguished and gallant author. For the benefit of the new members of the Security Council, I shall begin by inviting attention to a few salient facts which are too often ignored.

It will be remembered that the present dispute started with a complaint by India [S/628] under Article 35 of the Charter.

Let me summarize the complaint in the words of the Commission. I am reading from paragraph 119 of the majority report [S/1430]:

"In the complaint India alleged that a situation existed which was likely to endanger the maintenance of international peace and security. Such a situation existed, the Government of India said, owing to the aid which invaders, consisting of nationals of Pakistan and tribesmen from the territory immediately adjoining Pakistan on the north-west, were receiving from Pakistan for operations against the State of Jammu and Kashmir. This State, according to India, had acceded to the Dominion of India and was a part of India."

Pakistan's reply is to be found in paragraph 3 of document I of annex 45 [S/1430/Add. 1] to the Commission's report and in two paragraphs of document II, section C of the same annex.

I hope that members of the Council will not mind my troubling them to refer to these documents as I go along, because I am very anxious that they should verify every single statement of fact which I make. I am now reading Pakistan's reply to India's charge from paragraph 3 of document I of annex 45 of the Commission's majority report:

"While the particulars of Pakistan's case are set out in document III the Pakistan Government emphatically denies that it is giving aid and assistance to the so-called invaders or has committed any act of aggression against India. On the contrary, and solely with the object of maintaining friendly relations between the two Dominions, the Pakistan Government has continued to do all in its power to discourage the tribal movement by all means short of war. This has caused bitter resentment throughout the country, but despite a very serious risk of large-scale internal disturbances, the Pakistan Government has not deviated from this policy. In circumstances which will become clear from the recital of events set out in document III, it may

be that a certain number of independent tribesmen and persons from Pakistan are helping, as volunteers, the *Azad* Kashmir Government in its struggle for liberty, but it is wrong to say that Pakistan territory is being used as a base of military operations. It is also incorrect that the Pakistan Government is supplying military equipment, transport and supplies to the 'invaders' or that Pakistan officers are training, guiding and otherwise helping them."

I continue to read now from two paragraphs of document II, section C, which form part of the same reply:

"The Muslim population of the State have set up an *Azad* (Free) Kashmir Government, the forces of which are carrying on their fight for liberty. It is possible that these forces have been joined by a number of independent tribesmen from the tribal areas beyond the North West Frontier Province and persons from Pakistan, including Muslim refugees from East Punjab, who are nationals of the Indian Union.

"The allegations made by the Indian Government that the Pakistan Government is affording aid and assistance to the *Azad* Kashmir forces, or that these forces have bases in Pakistan territory, or that these forces are being trained by Pakistan officers, or are being supplied with arms or material by the Pakistan Government, are utterly unfounded."

Briefly, therefore, Pakistan first conceded that tribesmen and persons from Pakistan might be helping the so-called *Azad* Kashmir Government; secondly, Pakistan emphatically denied that the Pakistan Government was giving any aid to those tribesmen and the other intruders; thirdly, Pakistan described as "utterly unfounded" the allegation that the Pakistan Government was giving aid to the *Azad* Kashmir forces or that Pakistan officers were training them. This was the position throughout the discussions in the Security Council, and on this basis the Security Council adopted its resolution of 21 April

1948 [S/726] which is reproduced as annex 46 to the majority report. Let me read the relevant portions. That resolution provides for the "restoration of peace and order". In this connexion it says:

"The Government of Pakistan should undertake to use its best endeavours:

"(a) To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purpose of fighting, and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State."

Then comes the Government of India's part:

"The Government of India should...

"(a)...put into operation in consultation with the Commission a plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order."

Then it goes on to provide for a plebiscite:

"The Government of India should undertake . . . that there will be established in Jammu and Kashmir a plebiscite administration to hold a plebiscite as soon as possible on the question of the accession of the State to India or Pakistan."

This resolution aimed, amongst other things, first, at the restoration of peace and order by the withdrawal, in the first instance, of the tribesmen and the Pakistan nationals that had entered the State for fighting, to be followed later by the reduction of the Indian armed forces that had been sent to repel them; and secondly, at the holding of a plebiscite on the question of the accession of the State to India or to Pakistan.

What happened next? According to the distinguished Foreign Minister of Pakistan himself, Pakistan troops moved into the State early in May. This is mentioned in paragraph 129 of the Commission's first interim report [S/1100]. That is to say, Pakistan troops moved into the State within a fortnight of the above discussions in the Security Council, throughout which the Pakistan Government had denied giving any aid to the invaders or to the *Azad* Kashmir forces.

I should like to mention that in the Security Council resolution of 17 January 1948 [S/651], which was reaffirmed in the resolution of 21 April 1948, the two Governments, that is the Government of India and the Government of Pakistan, were requested "to inform the Security Council of any material change in the situation which occurs or appears to either of them to be about to occur."

In a letter addressed to the Security Council [S/659] the Pakistan Government agreed to comply with this request. Nevertheless, as I have said, the Pakistan Government sent troops into Kashmir without informing the Security Council. It was only on 8 July 1948, two months after the troops had entered the State, and after the arrival of the Commission on the Indian sub-continent, that the Commission was officially notified by the Pakistan Government of the presence in the State of three brigades of regular Pakistan troops. All these facts have been mentioned in paragraphs 128 and 129 of the Commission's first interim report [S/1100] and in paragraph 128 of the Commission's present majority report.

The Government of Pakistan alleged at one stage that this was a purely defensive move, but the Commission was definitely of the view [S/1100, annex 27] that "the presence of Pakistan troops in the State of Jammu and Kashmir, however, is a material change in the situation as considered by the Security Council in its resolution of 21 April 1948, which creates obstacles to the effective and immediate implementation of an unconditional cease-fire". I hope representatives will not forget who created this first obstacle to the plebiscite; not only was it the first obstacle, but it has been the direct cause of all the other obstacles that impede our progress today.

Not only did the Pakistan Army invade the State, but it assumed command and direction of the *Azad* Kashmir forces: on 4 August 1948 the Foreign Minister of Pakistan stated to the Commission, "the Pakistan Army is at present responsible for the over-all command of the *Azad* Kashmir forces"; and on 9 August 1948 the High Command of the Pakistan Army stated that the *Azad* Kashmir forces were operationally controlled by the Pakistan Army. This is mentioned in subparagraphs 1 (b) and (c) of the appendix to annex 27 of the Commission's first interim report [S/1100]. Thus, India's original complaint alleging aid by Pakistan, though at first denied by Pakistan [S/646], was now proved to be true or, at least, to have become true in an aggravated form; not only was there aid, but the Pakistan Army was actually inside the State giving aid and direction and, indeed, engaging in actual fighting.

Nevertheless, nothing effective has yet been done about this complaint. The Pakistan Army is still within the State of Jammu and Kashmir and has been there, now nearly twenty months, it has penetrated various parts of the State and built up subversive local forces and authorities. Let me substantiate these points. Let me first read paragraph 203 of the Commission's present report. I am sorry to have to trouble representatives with constant references to these documents, but I am anxious that every statement which I make should be capable of immediate verification. I am reading from paragraph 203:

"The resolution of 13 August 1948 [S/1100, paragraph 75] recorded one major change in the situation as contemplated by the Security Council during its deliberations in the early part of that year, namely, the presence of Pakistan troops in the State of Jammu and Kashmir. It did not, however, record a second element which has developed subsequently into a serious problem in the implementation of that resolution: The *Azad* (Free) Kashmir Movement, the fighting forces of which today number thirty-two well-equipped battalions."

I shall next read paragraph 225 of the same report:

"There is, indeed, no doubt that the *Azad* forces now have a strength which changes the military situation, and to that extent makes the withdrawal of forces, particularly those of India, a far more difficult matter to arrange within a structure which considers only the regular forces of the two armies. Although it might be a matter of discussion whether the numerical strength of the *Azad* Kashmir forces has actually increased since August 1948, there is no question that those forces, which have since then been working in close co-operation with the Pakistan regular army and which have been trained and offered by that army, have increased their fighting strength. It is reasonable to suppose that if the Commission had been able to foresee that the cease-fire period would be prolonged throughout the greater part of 1949 and that Pakistan would use that period to consolidate its position in the *Azad* territory, the Commission would have dealt with this question in part II of the resolution of 13 August."

The minority report of the Czechoslovak delegation [S/1430/ Add. 3] is to the same effect. I am reading from the minority report:

"The '*Azad* forces' meanwhile grew by the spring of 1949 into thirty-two disciplined and fully armed battalions, which, according to an evaluation by the military adviser of the Commission, represent a 'formidable force'. Owing to this fact, which is at variance with part I, section B of the said resolution forbidding both parties any increasing of their military potential, the situation has materially undergone an absolute change."

Thus it is clear that these forces, as they now exist, were built up by, or with the aid of, the Pakistan Army between August 1948 and the spring of 1949 contrary to the understanding that Pakistan would not use the period for consolidating

its position or increasing its military potential. I beg representatives to note who is responsible for creating this second obstacle to the plebiscite.

With regard to the penetration of the northern areas, the position is equally clear. Let me read from paragraph 272 of the Commission's majority report:

"It seems, however, very doubtful whether the northern areas were in fact in the autumn of 1948 under the 'effective' control of the Pakistan High Command, in the sense that the Commission understood the term 'effective control'."

I shall now read from paragraph 274 of the same report:

"When it drafted the 13 August resolution the Commission did not consider the northern area in the same light as it did western Kashmir. However, by January 1949 Pakistan undeniably held military control over the northern areas; the area was administered by local authorities, not of the Jammu and Kashmir Government, with the assistance of Pakistan officials."

In other words, Pakistan obtained military control of these areas between August 1948 and January 1949. The minority report is again to the same effect. I quote from it:

"Moreover, the situation in the 'northern area' had meanwhile undergone a material change, in that the Pakistan Army, which was not bound by the resolution of 13 August 1948, conquered many strategically important places during the interval before, by the resolution of 5 January 1949, it was also sanctioned by the Government of Pakistan."

It is thus abundantly clear that Pakistan penetrated and obtained control of these areas between August 1948 and January 1949; and Pakistan officials assisted in their administration through "local authorities", not of the Jammu and Kashmir Government.

Once again, I request members of the Council to note who has created this third obstacle to the holding of the plebiscite.

And yet, in this topsy-turvy world, it is India that is constantly accused of "stealing", of delaying the plebiscite and so forth.

Strictly speaking, the Pakistan Army should have been completely withdrawn long ago, and the disruptive forces and authorities created by that army during its unlawful presence in the State should have been completely dissolved, but so far nothing of the kind has been done. I shall have to remind the Council of this broad fact again and again, lest it should be forgotten or ignored in the mass of detail.

When the United Nations Commission for India and Pakistan, upon its arrival on the Indian sub-continent, found itself confronted with a situation which the Security Council had not contemplated during its debates, the Commission could have reported the new facts to the Council immediately, and the Council might then have asked the Pakistan Army to be withdrawn, just as it had asked the tribesmen and other foreign elements to be withdrawn, and neither the subversive *Azad* forces nor the subversive *Azad* administrations would have had time to be built up. But the opportunity was lost. The Commission doubtless thought, in good faith, that it could deal with the situation itself and accordingly passed its resolution of 13 August 1948, in which it is set forth in part II, section A, paragraph 1:

"As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State."

If this resolution had been accepted and carried out by Pakistan at once, some of the subsequent mischief would have been avoided, for the Pakistan Army would have had to be withdrawn while the *Azad* forces were still in an embryonic state, and the northern areas were not yet under the effective control of the Pakistan High Command. But while India accepted the resolution with certain clarifications on 20 August 1948, that is, within a week of its receipt, Pakistan made

various reservations which amounted to rejection. The matter came before the Security Council in November 1948 [382nd meeting]. If, even at this late stage, the Council had secured the withdrawal of the Pakistan forces, the situation might have improved. The Council, however, merely desired the Commission to continue its efforts for a peaceful solution. On 11 December 1948, the Commission drew up proposals for a plebiscite [S/1196, annex 3], supplementary to the proposals of 13 August 1948.

I should like to emphasize the word "supplementary". These proposals merely amplified those of 13 August and, indeed, the very first sentence of the supplementary proposals ran: "The Commission reaffirms its resolution of 13 August 1948". Therefore, all the clarifications given to India in connexion with that resolution still hold good.

India accepted the supplementary proposals on 23 December 1948 [S/1196, annex 4] on the basis of certain explanations and understandings. Those proposals subsequently became the Commission's resolution of 5 January 1949 [S/1196, paragraph 15]; but I hope members will remember that India accepted them on 23 December 1948.

At this stage, that is to say, on 23 December 1948, Pakistan had not accepted either the original or the supplementary proposals. Ultimately Pakistan also accepted the proposals, but the fact remains that the Pakistan Army is still within the State and even after acceptance of the resolution, it has continued its unlawful activities.

Today, the position is that Pakistan which, throughout the discussions here in 1948, denied giving any aid either to the invaders or to the *Azad Kashmir* forces, is now itself not only an invader but is in actual occupation of nearly half the area of the State without any lawful authority from any source. This is naked aggression of which no one can approve, but there is no hint or sign of disapproval in the present proposals. Indeed, the very reverse is the case. By sanctioning the administration of the northern areas by the existing local authorities, these proposals, in effect, recognize and help to perpetuate the unlawful occupation of these areas by Pakistan.

As I have already mentioned, the "existing local authorities"—I am quoting from the proposals—derive their powers not from the Government of Jammu and Kashmir but from Pakistan. They are, therefore, merely instruments of the Pakistan Government.

If I may say so, there is a serious basic defect in these proposals. They spring from an assumed false analogy between the Pakistan Army and the Indian Army, as also between the *Azad* Kashmir forces and the Kashmir State forces. They completely ignore the legal and moral aspects of the question. The Indian Army went into the State at the request of the lawful Government of the State in order to repel an actual admitted invasion by tribesmen and Pakistan nationals. The request emanated not only from the Ruler of the State but also from the head of its Emergency Government, Sheikh Mohammad Abdullah, who has been in the van of the Kashmiri people's movement for freedom for nearly twenty years and who has suffered imprisonment nine times in the people's cause. The Pakistan Army, on the other hand, invaded the State without any lawful authority and without even notice to the Security Council, although the Pakistan Government had previously denied giving any aid to the invaders and had promised to apprise the Security Council of any material change that might occur in the situation. As for the *Azad* Kashmir forces, they are no more than a limb of the Pakistan Army, built up for the most part by that army after its unlawful invasion of the State, and they can therefore in no way be put on the same level as the lawful forces of the Kashmir State.

The proposals of the Commission of 13 August 1948 and 5 January 1949, were accepted by India on certain assurances:

1. That the sovereignty of the Jammu and Kashmir Government would not be brought into question.
2. That no recognition would be afforded to the so-called *Azad* Kashmir Government.
3. That the territory occupied by the Pakistan troops would not be consolidated to the disadvantage of the State.

4. That there would be a large-scale disarming and disbanding of the *Azad* Kashmir forces.
5. That the question of the northern areas would receive consideration in the implementation of the Commission's proposals.

Let me explain exactly where these assurances are to be found. The first three will be found in the reply of the Chairman of the Commission of 25 August 1948 [S/1100, paragraph 79] to the Prime Minister of India's first letter of 20 August, paragraphs 3 and 4 [S/1100, paragraph 78].

The fourth assurance—namely, that relating to the disbanding and disarming of the *Azad* Kashmir forces—will be found in paragraph 2 of the *al-de-memoire* of the conversation between Mr. Lozano and the Prime Minister of India on 22 December 1948 [S/1196, annex 4].

The fifth assurance—that relating to the northern areas—will be found in the reply of the Chairman of the Commission of 25 August 1948 to the Prime Minister of India's second letter of 20 August [S/1100, paragraph 80].

Let us see what has happened to these assurances. Under these proposals the sovereignty of the Jammu and Kashmir State is eliminated, in fact, from the areas on the other side of the cease-fire line, in other words, from nearly one-half of the entire area of the State; secondly, the administration of these areas by "the existing local authorities", an expression interpreted in some quarters to mean the *Azad* Government authorities, is recognized; thirdly, the consolidation effected by Pakistan troops to the detriment of the State is allowed to remain; fourthly, the disarming and disbanding of the *Azad* Kashmir forces is neutralized by similar disarming and disbanding of the State forces and the State militia; fifthly, the claim made by the Government of India in respect of the northern areas is dismissed. Thus the net effect of the proposals is to eliminate or neutralize every one of the assurances relied upon by India.

India's case is that, just as the entry of the Pakistan troops into Kashmir was wrong and an act of aggression, equally

wrong and aggressive was their building up of the subversive *Azad* Kashmir forces and their occupation of a large part of the State. All these things must be completely undone before there can be a plebiscite. These unlawful activities of the Pakistan Army took place under the very nose of the Commission and in spite of the assurances given to India by the Commission. To recognize the fruits of the aggression in any way is utterly unjustifiable.

There is another point which is apt to be overlooked or ignored in these discussions. According to the resolution of 5 January 1949 [*S/1196, paragraph 15*], the object of the plebiscite is to decide the question of accession—which necessarily includes continued accession—of the State of Jammu and Kashmir to India or to Pakistan. Now, accession does not mean dissolution: the acceding State remains intact and fully sovereign in its own field even after accession; it continues as a single unit. If, therefore, the plebiscite is to be held for the State as a whole, if the State is to accede as a whole, it must not be disrupted beforehand. Indeed, sub-paragraph 3(b) of the resolution of 5 January 1949 requires that the Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers which he considers necessary for organizing and conducting the plebiscite and for ensuring its freedom and impartiality. How can he derive these powers from the State in the northern areas if the State is deprived of its authority in those areas beforehand? To disrupt the State in this way and to recognize various "existing local authorities" would be a contravention of the plain terms of the resolution. We attach the greatest importance to sub-paragraph 3(b), which was inserted in the resolution at India's instance, and which we regard as embodying the assurance that the State would have unquestioned sovereignty throughout its territory before the plebiscite was held.

It is true that in accepting the Commission's resolution of 13 August 1943, the Government of India made certain concessions for the sake of peace; but these concessions were of a limited character, and they were confined to the so-called *Azad* Kashmir territory in the south-western district. That is no

reason why similar or even more far-reaching concessions should now be proposed for the northern areas. This process has gone on long enough. When the case left the Security Council in April 1948, there were only two things standing between Kashmir and the plebiscite. The invaders had to withdraw and then the Indian Army was to be reduced. In May 1948 Pakistan created a new complication by sending in its army. As the price of withdrawing this army, which never should have been there, Pakistan obtained, under the Commission's resolution of 13 August 1948, the concession that the evacuated territories—then confined to the south-western part of the State—would be administered by "local authorities under the surveillance of the Commission" subject to the sovereignty of the State. But Pakistan was not content. It did not accept the resolution until 25 December 1948 [S/1196, annex 5]. Meanwhile, it created another complication by building up the *Azad* Kashmir forces. As the price for the disbanding and disarming of these forces, it obtained a further concession in the resolution of 5 January 1949. Under the McNaughton proposals it is now to receive some more concessions, including the administration of the northern areas by "the existing local authorities".

India cannot possibly go on making these concessions and frittering away its position. It is urged that, for the sake of peace, India should acquiesce in them because, it is said, they are, after all, temporary and only a step towards the holding of the plebiscite. But it is incomprehensible to us why pressure should always be brought to bear on India to acquiesce in wrong, and why, for a change, some pressure should not be brought to bear on the other side to acquiesce in the right on the same grounds.

There is no local hostility or resistance to the lawful Government of the State in the northern areas, except such as proceeds from the Pakistan regular and irregular forces; and this is borne out by the fact, witnessed by United Nations observers, that the inhabitants of certain villages on the Pakistan side of the cease-fire line have insisted on moving across to the Indian side. When these forces, including the

Gilgit Scouts, the Chitralis and the Baltistan Scouts, are withdrawn, the responsibility for the administration of these areas should revert to the Government of Jammu and Kashmir, and for their defence, to the Government of India.

I shall now proceed to analyse in some detail the McNaughton proposals [S/1453] and shall compare them with the corresponding proposals made by the Commission in April 1949. The proposals made by the Commission were not accepted either by India or by Pakistan—of course, for opposite reasons. It will be found that the present proposals are substantially the same as the Commission's proposals, minus certain parts which were intended to meet India's point of view, plus certain additions favourable to Pakistan.

Paragraph 1 of the McNaughton proposals is in general terms, and needs no comment except this: sub-paragraph 1(d) lays down that discussion of disputed past issues should be avoided. But in these proposals many of the past issues are decided against India, and we are asked to accept this position. We think such an approach cannot lead to any settlement because it ignores the origin of the conflict, the subsequent developments and present conditions. The crucial paragraphs, dealing with demilitarization, *Azad* Kashmir forces and the northern areas, are paragraphs 2 and 3. Let me first read sub-paragraph 2(b) and sub-paragraph 3(a). Sub-paragraph 2(b) reads as follows:

"The 'northern area' should also be included in the above programme of demilitarization, and its administration should, subject to United Nations supervision, be continued by the existing local authorities."

Sub-paragraph 3(a) reads as follows:

"The Government of Pakistan should give unconditional assurance to the Government of India that it will deal effectively within its own borders with any possibility of tribal incursion into Jammu and Kashmir to the end that, under no circumstances, will tribesmen be able unlawfully to enter the State of Jammu and Kashmir from or through

the territory of Pakistan. The Government of Pakistan should undertake to keep the senior United Nations military observer informed and to satisfy him that the arrangements to this end are and continue to be adequate."

I now request the members of the Council to turn to annex 17 [S/1430/Add. I] which contains letters dated 15 April 1949 from the Commission to both Governments. The letters are in almost identical terms, and to them were annexed the Commission's proposals for a truce agreement. I shall read the letter addressed to the Government of Pakistan:

"The Commission has considered the developments which have taken place since it last addressed itself formally to both Governments with regard to the implementation of part II of its resolution of 13 August 1948. It has considered the viewpoints of both Governments and it has been studying the steps which have been and might be taken in connexion with the further implementation of the resolution of the Commission.

"In the light of all the above factors, and in order to facilitate the restoration of peace in the State of Jammu and Kashmir and the holding of an early plebiscite, the Commission has decided to urge formally upon both Governments agreement upon the proposals contained in the enclosed documents.

"The Commission considers that these proposals represent an adjustment of viewpoints within the framework of and consistent with the spirit of the commitments already entered into. It is also convinced that in accepting these proposals, both Governments will have taken a further important forward step toward the attainment of the objective which animates both of them, as well as the Commission: the prompt and peaceful solution of the problem of the State of Jammu and Kashmir through a free and impartial plebiscite.

"The Commission requests that the Government of Pakistan signify its agreement on these proposals as soon

as possible, and it hopes to be in possession of the agreement within three days, so that the Commission may then determine its future course of action."

The letter to the Government of India, as I have already said, was in similar terms.

Let me read the proposal then made by the Commission to both Governments. Paragraph 3 of section A states:

"The territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission and without prejudice to the sovereignty of the State."

Members of the Council will please note the words: "and without prejudice to the sovereignty of the State."

Even more comprehensive is the phrase in paragraph 1 of section F of the same proposals, which states:

"These provisions are without prejudice to the territorial integrity and the sovereignty of the State of Jammu and Kashmir."

That same day, Pakistan asked for elucidation of this phrase. That request will be found in annex 18. The elucidation was given in annex 19, paragraph (i) as follows:

"By this phrase, the Commission means that the administration of the area by the local authorities under the surveillance of the Commission would not bring into question the sovereignty of the State of Jammu and Kashmir as a whole. It has consistently been the view of the Commission, as well as of the Security Council, that, pending the determination of the will of the people as regards the accession of the State to India or Pakistan, neither body will recognize any new sovereignty in the State. To do so would constitute a prejudgment of the will of the people."

I shall return to this point presently and show how, in spite of the consistent view of the Security Council and of the

Commission, the reservation as to the territorial integrity, etc., of the State of Jammu and Kashmir has been omitted from the present proposals.

Meanwhile, let me turn to another part of the proposals in annex 17. I shall read paragraph 3, section D, which relates to the northern areas:

"The Commission will have observers stationed where it deems necessary. In the sparsely populated and mountainous region of the territory of Jammu and Kashmir in the north, observers will be stationed who, in the event that the defence of this territory becomes necessary, will so advise the Commission. The Commission, in this case, or at the request of the Government of India, may agree that the Government of India post garrisons at specified points of this area."

To this, Pakistan objected, one of the objections being that Pakistan had given an assurance to deal effectively with any tribal incursions within its own borders, and that, therefore, the posting of Indian garrisons was unnecessary. The Commission, however, did not agree. After considering the replies of both Governments, the Commission formulated its final proposals in annex 21. This is referred to in paragraph 173 of the Commission's majority report. It will be noticed that the Commission regarded these final proposals as representing "a fair compromise".

I hope that members will now read part I, section D of these final proposals. This contemplates that, if the United Nations observers should so advise, the Commission may request the Government of India to post garrisons at specified points. Even this small concession to the Indian point of view has now disappeared from the present proposals. Sub-paragraph 4(b) of annex 22 shows that the Commission had put it in—qualified and diluted as it was—to meet the position of the Government of India. But Pakistan objected to it, as will be found from sub-paragraph 6(c) and paragraph 7 of annex 49, and we find that it has now been omitted from the present proposals. Sub-paragraph 3(a) of the present proposals rests

content with Pakistan's assurances; it does not say what is to happen if the United Nations observer is not satisfied that the arrangements made by Pakistan are adequate. May I ask what arrangements Pakistan made to prevent the tribal incursions of October 1947? In fact, members will remember that, in Pakistan's reply to India's complaint, Pakistan's position was that it had done everything in its power to discourage the tribal incursions. Nevertheless, they did occur. What is to happen if the situation recurs? India can take no risks in this matter.

But we are concerned here with something more than tribal incursions. If members will please turn to annex 24, they will find there a letter from the Pakistan Minister to the United Nations Commission. I shall read from the last sub-paragraph of paragraph 7:

"Ever since May 1948, when Pakistan troops entered Kashmir and over-all tactical control was taken over by G.H.Q. Pakistan, the Commandant Gilgit Scouts, a Pakistan Army Officer, has been exercising over-all tactical and administrative control of Gilgit Scouts, Baltistan Scouts and the local militias."

Now, let us see what happened during this period in June and July 1948. I read, in paragraph 7 of the same annex, that a contingent of 400 so-called volunteers from Chitral go and besiege Skardu, while the Skardu forces go and besiege Leh. All this happened under the auspices of the Pakistan High Command. These are not tribal incursions; they are incursions by so-called volunteers from one part of the State into another part—volunteers recruited and organized by Pakistan authorities. Unless this process is checked, it will go on as in the past and no part of the State will be safe from infiltration and attack. India cannot afford to take this risk.

Let me now return to the important point of the State's integrity and sovereignty. This was conceded—if the acknowledgement of a right can be called a concession—in the Commission's proposals of April 1949, set forth in part III, section G of annex 21. But Pakistan objected to it and, once

again, it has been omitted from the present proposals although there were repeated assurances given to India that the sovereignty of the State would not be questioned. Sub-paragraph 2(b) of the present proposals merely provides for the continuation of the existing authorities, without any reservation of the sovereignty of the State.

I now come to sub-paragraph 2(a) of the present proposals. These proposals relate to demilitarization. In effect, this paragraph brings together the demilitarization proposals contained in the resolutions of 13 August 1948 and 5 January 1949, but there are two important changes. At no time previously was it suggested that the Kashmir State forces should be disbanded or disarmed. These have never been expanded, and the proposal to reduce or disband or disarm them is new. So, too, is the mention of the State militia, which is like an armed constabulary. The question of this militia had been raised with the Commission by Pakistan without success more than once. At least one reference to it can be found in annex 10, paragraph 22. That concession which Pakistan did not get from the Commission, is now made in the present proposals.

In effect, therefore, in crucial respects the new proposals are the old proposals minus some of the small concessions previously made to India plus certain new concessions now made to Pakistan. Is it a matter of surprise that India has been unable to accept them as they stand?

We have, accordingly, proposed two main amendments, besides a few clarifying or consequential ones. These amendments have already been read out to the Council; they are reproduced in General McNaughton's report; and I do not think it is necessary for me to read them over to the Council once again.

I should now like to attempt to remove certain persistent misconceptions which have prevented India's case from being properly appreciated.

It is often said that Kashmir (for brevity, I refer to the State of Jammu and Kashmir as "Kashmir") is a predominantly Muslim State and that India is attempting to put off a plebiscite

because it feels certain that it would result in a verdict in favour of Pakistan.

I should like to remind members of the Council that the conflict in Kashmir is not a Hindu-Muslim conflict at all: the truth is that a large section of the Muslims of Kashmir are themselves in favour of accession to India. For this choice there are solid grounds. They believe that their real problem is one that is common to all the people of Kashmir, irrespective of creed: the problem of achieving economic and political freedom; and they think they can solve this problem best by remaining in India. Under the new Indian Constitution which has just come into operation, the people of Kashmir, if they decide to remain in India, will have a very large measure of autonomy. They will have complete freedom to make their own State Constitution and even to decide for themselves what is to be the position of the present ruling dynasty. Autocracy is dead in every single State in India; there is a people's government in every one of them. Thus, their political freedom is assured in India. The measures necessary for the economic emancipation of the people of Kashmir, such as the abolition of absentee landlordism, the grant of greater rights to the tiller of the soil, and so on, are in line with similar measures adopted in various parts of India. By far the largest part of Kashmir's trade, whether import or export, has been with the areas now included in India. And so this large section of the Muslims of Kashmir believe that the economic progress of the people would also be best promoted by their remaining in India. After all, there are 35 million to 40 million Muslims in India, and India is a secular, democratic State with human rights and fundamental freedoms for all its citizens guaranteed by the new Constitution.

I should like to mention at this point that under the Indian Constitution which was in force between 15 August 1947 and 26 January 1950, all that was required for the accession of an Indian State to the Indian Dominion was an instrument of accession executed by the Ruler, and accepted by the Governor-General. When, therefore, the Maharaja of Kashmir executed an instrument of accession in favour of India on 26 October 1947, and when the Governor-General of India, Lord Mountbatten, accepted it the next day, all the constitutional conditions

for accession were complete. Nothing more was required under the Constitution. Nevertheless, India went out of its way and imposed upon itself the obligation that, as the accession took place at a time of grave disorder, the question should be settled by a reference to the people as soon as law and order had been restored and the soil of Kashmir cleared of the invader. The obligation was entirely self-imposed. This is a fact which critics continually forget: if India did not want a plebiscite there was nothing to compel it to pledge itself to one. That pledge, subject to its conditions, still stands.

Another misconception which dies hard is that the whole trouble in Kashmir was the result of the Maharaja's accession to India. It cannot be repeated too often that the very reverse was the case. Invaders from outside Kashmir began to pour into the Valley of Kashmir on 22 October 1947. This is a historical fact which can be easily proved from the records, and which no one, to my knowledge, has controverted. The Maharaja's letter containing the Instrument of Accession was written on 26 October 1947, four days later. To refresh the memories of the members of the Council, I shall read a few extracts from that letter:

- “Afridis, soldiers in plain clothes and desperadoes with modern weapons had been allowed to infiltrate into the State...The wild forces thus let loose on the State are marching on with the aim of capturing Srinagar, the summer capital of my Government, as a first step to overrunning the whole State...With the conditions obtaining at present in my State and the great emergency of the situation as it exists, I have no option but to ask for help from the Indian Dominion. Naturally it cannot send the help asked for by me without my State acceding to the Dominion of India. I have accordingly decided to do so and I attach the Instrument of Accession for acceptance by your Government. The other alternative is to leave my State and my people to freebooters...If my State is to be saved, immediate assistance must be available at Srinagar.”

It is clear from these extracts that, far from the invasion

being due to the accession, the accession was forced by the invasion. Nevertheless, one finds this fiction repeated time and again.

I notice that the majority report, in section V of the appendix, observes that the admission of representatives of Kashmir to the Constituent Assembly of India "was undesirable from the political point of view, since it was bound to increase tension between India and Pakistan on the Kashmir question." The Belgian delegation has been even more emphatic and has remarked that the matter requires the serious attention of the Security Council. I should like in this connexion to state that the representation of Indian States in the Constituent Assembly was decided on early in 1947 before India was even partitioned and before any question of accession arose. Every Indian State, whether it ultimately wished to accede or not, was then given representation according to its population on the basis of one representative for every million of the population. On this basis Kashmir was allotted four members, and Kashmir has been entitled to this representation ever since April 1947; it is not a new thing.

The real idea was that all the States should have a share in so moulding the Constitution as to make accession possible, but even so they were completely free to accede or not to accede after the Constitution had been completed and the whole picture was before them. It will be remembered that a similar plan was followed in Canada at the Quebec Convention in October 1864, the resolutions of which subsequently formed the basis of the British North America Act. Quebec and Ontario were represented by twelve delegates, Nova Scotia by five, New Brunswick by seven, Prince Edward Island by seven and Newfoundland by two, but it will also be recollected that although all thirty-three representatives took part in the Conference, nevertheless Prince Edward Island did not join the Federation until six years after the passing of the British North America Act, and Newfoundland did not come into the Federation until some time last year, nearly eighty years later. It is therefore clear that the admission of representatives from any particular State into the Indian Constituent Assembly did not necessarily imply accession. As I have said, Kashmir had this.

to right representation ever since April 1947; it acceded, tentatively, in October 1947, so that the accession came after the grant of the right and not the other way round.

The question may be asked why the right of accession was not actually exercised until June 1949 and why the representatives of Kashmir did not come into the Assembly until then. One obvious reason is that the Constituent Assembly did not start discussing the provisions of the Constitution in which Kashmir was interested until that stage. It has been made clear by the Prime Minister of India time and again that although Kashmir's accession has been constitutionally complete ever since the acceptance of the Ruler's Instrument of Accession by the Governor-General in October 1947, nevertheless, the people will be free at the plebiscite either to continue the accession or to put an end to it. I have thought it necessary to explain this matter at some length because there appears to have been some misapprehension on this matter in the minds of the members of the Commission.

Another allegation, completely untrue but repeatedly made, is that India sent its army to Kashmir to help the Ruler against the people and is keeping the Indian Army there for the purpose of coercing the people of the State to vote in favour of India at the plebiscite. As I have already stated, if India desired to secure Kashmir without a plebiscite, it could easily have done so by not making the offer of a plebiscite at all. It is really fantastic to suggest that, in order to seize Kashmir, India first offers a plebiscite, which it was not bound to do, and then sends an army to influence the plebiscite.

The real reason for the sending of the Indian Army is clear from what I have already read out from the Maharaja's letter containing his Instrument of Accession, but I should like to emphasize this part of our case in order that the fiction may never again be repeated, and for this purpose I should like to read out to the Security Council accounts of eye-witnesses of certain incidents which took place at Baramula, about thirty-five miles from Srinagar, on the evening of 26 October 1947. I should like representatives to bear that date in mind—the evening of 26 October 1947. These incidents have been described for us by

a well known United States citizen, Margaret Bourke-White, in her recent book *Half Way of Freedom*. There is a chapter in this headed "Struggle for Kashmir". I shall read the opening half dozen paragraphs of this chapter:

"While the People's Government in Kashmir's capital was completing the new constitution, with such clauses as 'Freedom of conscience and of worship shall be guaranteed for all citizens,' across the border in Pakistan a thousand-year-old cry was raised: 'Islam is in danger!'

"But when the fanatic Muslim tribesmen began streaming into Kashmir, it seemed as though it was Christianity that was in danger. The tribesmen quickly reached Baramula, a picturesque river town that commands the western slopes of Kashmir valley, and they selected the orchard of St. Joseph's Convent for a motor pool. The stories that began leaking out about the violating and shooting of the nuns of the Order of St. Francis sounded like old-fashioned atrocity tales.

"I was in Pakistan when the invasion was beginning, and I did not find it easy to make my way to the scene of action. Pakistan officials explained on rather contradictory grounds their reluctance to let me cross into Kashmir. On the one hand 'there was nothing to photograph'; on the other 'it was very dangerous for a woman; tribesmen abducted women!'

"I managed to get as far as Abbottabad, the last outpost on the Pakistan side of Kashmir, when the nuns who survived the carnage were rescued, and I was successful in meeting them as they escaped over the border at dawn. The Mother Superior had been seriously wounded and was rushed to the hospital. The grave-faced sister from whom I got the details had been in the babies' ward on the convent grounds when the tribesmen began smashing up X-ray equipment, throwing medicine bottles to the ground, ripping the statuettes of saints out of the chapel, and shooting up the place generally. Two patients were killed; an Englishman and his wife who were vacationing at the mission were murdered; two nuns

were shot. 'They didn't hurt my babies,' added the sister triumphantly.

"For nine days there was a reign of terror in the convent. The nuns, their hospital patients, and a few stray townspeople who had taken refuge at the mission were herded into a single dormitory and kept under rifle guard. On one of these days, after an air attack from the Indian Army had left the tribesmen in a particularly excited and nervous mood, six of the nuns were brought out and lined up to be shot. It was the accident that one of them had a conspicuous gold tooth that saved the sisters. One of the riflemen wanted to get that tooth, before his colleagues had a chance at it. In the scuffle that followed, one of their chiefs arrived; he had enough vision to realize that shooting nuns was not the thing to do, even in an invasion, and the nuns were saved."

This account is corroborated by the story of another eyewitness, Father Shanks, reproduced in the *Daily Express* of London, dated 11 November 1947. It gives me no pleasure to read these details, and I shall omit them.

I do not for a moment suggest that this particular outrage was approved by Pakistan. Indeed Pakistan must have deplored it as much as India; but that is just my point. Pakistan deplored it but did nothing to prevent it, whereas India not only deplored it but sent its army to prevent the recurrence of such incidents. The truth of this matter was accurately described in a letter by a British Colonel written from Pakistan on 2 November 1947, to a brother-officer in London:

"This Kashmir show was I think unsafe, and in my opinion amounts to an unofficial war on Pakistan's side. ... These tribesmen from the Frontier, who have poured up past here during the last fortnight, and are now fighting, killing, looting and burning in Kashmir—some thousands of them—did not arrive by themselves though. Quite obviously the whole business was well organized by a central hand for supply, for transport and for direction.

"A very dangerous machine has however been let loose, one which I doubt whether Pakistan can control generally, and certainly cannot control locally. The wretched European residents of Kashmir, people on leave, in convents, etc., have not escaped the general fury which is going on a bare hundred miles from here."

This explains why the Indian Army was sent to Kashmir. It arrived at Srinagar on the morning of 27 October 1947. It will be remembered that the outrage at Baramulla took place on the evening of 26 October. I do not think there is a single country represented in this Council that does not wish that the Indian Army had arrived a day earlier. It is a complete travesty of the facts to say that the Army was sent to Kashmir for purposes of aggression or that it is being kept there for purposes of coercion.

Before concluding, I should like to caution the Council against a plausible argument often employed in this controversy. It is put in this way: "India and Pakistan are both agreed that there should be a plebiscite to decide the question of accession. So here is something agreed upon by both parties; let us not disturb it. Starting from this point let us gradually reduce the areas of disagreement which still remain." That is the argument. It sounds an attractive argument, but it is fundamentally unsound. India offered a plebiscite upon certain assurances or conditions which amount briefly to this, that the State must be restored to its normal condition before the plebiscite is held. India stands by that offer, subject to those conditions. Pakistan, on the other hand, appears to desire a plebiscite with the State in its present disrupted and abnormal condition. The two positions are fundamentally irreconcilable. Where there has been no meeting of minds, it is not possible to spell out an agreement.

I shall bring my observations to a close with two quotations: the first is from a telegram sent by the Prime Minister of India to the Prime Minister of Pakistan on 12 December 1947, shortly before India decided to bring its complaint before this Council:

"Ever since my return from Lahore I have given the most earnest thought to the settlement of all outstanding matters in dispute between India and Pakistan. My colleagues share my desire for such a settlement which is essential for the well-being of both India and Pakistan. . . The major cause of this conflict at present is Kashmir. . . We would gladly co-operate in an attempt to restore peace by settlement. . ."

This shows the spirit which animated India then. The second quotation is from the speech of the President of the Indian Republic made a few days ago:

"Our history and culture, as well as the unalterable facts of geography, compel both India and Pakistan to live in friendly co-operation with each other. But the grievous wound caused by recent events will take some time to heal. It is my Government's policy to endeavour to help in every way this process of healing. In pursuance of this policy my Government has proposed to the Government of Pakistan that both Governments should make a solemn declaration for the avoidance of war as a method for the settlement of any disputes between them."

This is the spirit which animates India even now.

This completes what I have to say at this stage. I fear that I have somewhat trespassed upon the patience of the President and the members of this Council, but there has been so much misrepresentation of my country, due perhaps to wrong or inadequate information on the subject, that I have thought it necessary, even at the risk of wearying the Council, to explain our point of view as fully as possible.

120. Text of the Speech made by Sir Mohammed Zafrulla Khan (Pakistan) in the Security Council Meeting No. 463 held on 7 February 1950

I have, naturally, listened to the submission that the representative of India has made to the Security Council with the deepest

attention which it deserved, coming from a distinguished representative of a great country before this august organ of the United Nations on a matter and relating to an issue which is of the utmost importance not only from the point of view of the peace and prosperity of the two States that are directly affected by it, but which has, since the time of its unfortunate origin, put in serious jeopardy the maintenance of international peace.

One difficulty that I have experienced while listening to my learned and distinguished friend has been that he has chosen, no doubt very properly and wisely from his point of view, to impress upon the attention of the Council certain incidents, events, portions of proposals and agreements to substantiate his thesis. In most cases, however, the representations made by him, taken out of their context and based upon observations and certain reports, were not, as I hope to show, in themselves accurate as points of fact. Nevertheless, the proper appreciation of the whole problem, before the Council decides in what manner it is capable of resolution at the stage at which it has arrived, necessitates the appraising of those incidents and those factors against their proper background.

It is true that during the winter and spring of 1948, when this matter first came before the Security Council, the discussions that then took place went into every aspect of the matter in detail, and it is fortunately not necessary to repeat all of them or even to refer to every one of them, even as a matter of background. But since then, more than half the membership of the Security Council has changed and there has been some change in the personnel even of the representatives of the permanent members. Again, there is no doubt—and one has had proof of the fact—that the distinguished gentlemen who carried the honour of representing their various countries on the Council have been most diligent in their study of this problem. Nevertheless, it is necessary that the outstanding events and factors against which the whole problem has to be viewed, and which form the context and the background of the incidents to which the attention of the Council has been invited should be looked at in their proper setting and sequence. I

shall, therefore, with the President's permission, proceed to place those factors before the Security Council, and while I am doing that I shall invite the particular attention of the Council to some of the incidents and factors to which reference has been made by Sir Benegal N. Rau, so that the Council can properly appreciate and appraise them against their background. At the end of my submission I shall make observations upon any factors commented upon by him which are not thus dealt with by me.

The very first question that would assist the Council in appreciating and appraising the significance of the disputes over Kashmir between India and Pakistan would be an understanding of the considerations governing the accession of the Indian States to the Dominion of India or to the Dominion of Pakistan.

Kashmir is not an isolated case by itself. There were in the whole sub-continent of India some 500 Indian States, and out of them three or four became the subject matter of controversy or dispute between the two Dominions. I think it would be helpful to the Council if it were to attempt, as the result of such study as it has made of the problem and of such factors as may be submitted to it by the parties, to arrive, in the first place, at some principle or set of principles which have governed both India and Pakistan in trying to settle this problem of the accession of Indian States to one country or the other. And I venture to submit that in a sense what the two have done, or have agreed upon, or have indicated by their conduct or by their declarations to be the rule that should apply, should be regarded, in this respect, as a rule that is binding upon both and a rule which both should honour by putting it into force in respect of Kashmir.

As to the Indian States, we need not be detained very long by this aspect of their situation. They enjoyed various degrees and attributes of sovereignty before 15 August 1947. None of them was fully sovereign in the international sense, inasmuch as their foreign relations and some other aspects of sovereignty were managed by the suzerain power, that is to say, by the United Kingdom. But that state of affairs came to an end on

15 August 1947, in pursuance of section 7 of the Indian Independence Act passed by the United Kingdom Parliament. The Indian Independence Act provided a solution for the political and constitutional evolution of the whole of the sub-continent. To start with, the sub-continent was to be partitioned into contiguous majority areas of Muslims, and of course, consequently, contiguous majority areas of non-Muslims. The former were to be constituted into an independent sovereign State to be known as Pakistan and the latter into another sovereign independent State which has since been known as India. I am afraid that in the international sphere that nomenclature has caused confusion to some extent but that cannot be helped. The Council by this time is familiar with the fact that what used to be India is today Pakistan and India.

That left the question of the Indian States. As I have said, under section 7 of the Indian Independence Act, it was provided that the suzerainty of the British Crown over the Indian States would lapse on the due date, which is 15 August, and all treaties and agreements in force would cease to be operative. The Act itself made no further provision with regard to the future of the Indian States, but it had already been explained to the States and their Rulers in the summer of 1946, when the United Kingdom Cabinet Mission had visited India for the purpose of bringing about a settlement, that the void created consequent on the withdrawal of United Kingdom authority from India would have to be filled either by the States entering into a federal relationship with the successor government or governments in British India, or failing this, entering into political arrangements with it or them, that is to say, whether there was one successor government or several.

But after the Act was passed, the then Viceroy of India, Lord Louis Mountbatten, told the Chamber of Princes on 25 July 1947 that there were certain geographical compulsions which could not be ignored. He advised the Rulers of the Indian States, in arriving at a decision as to whether to accede to India or to Pakistan, to take into account considerations such as the geographical location of their States, their economic

and strategic factors and situations, and the wishes of their people.

As I have said, no trouble arose with regard to the vast majority of the Indian States. Those that were contiguous to India and had a majority of non-Muslim population acceded to India, the exception of Hyderabad. Those which were contiguous to Pakistan and had a majority of Muslims in their populations acceded to Pakistan. We have the exception of Kashmir, the question of which is now before the Security Council. One Indian State which, although not contiguous to Pakistan by land, had access to Pakistan through a short sea trip—that is to say, Junagadh, which had a majority of non-Muslims in the population but a Muslim Ruler—acceded to Pakistan.

These are the main difficulties or problems which arose with regard to the accession of States, subject to certain minor or subsidiary matters in connexion with Junagadh, that is to say, Kashmir, Junagadh and Hyderabad. I might, in passing, mention one Indian State, Kapurthala, which had a majority of Muslims in its population with a non-Muslim Ruler. The total Muslim population of that State—those who were not massacred—was driven out of the State in order to facilitate its absorption into the Dominion of India.

The States of Hyderabad, Junagadh and Kashmir presented a problem, and anyone desiring to understand India's stand and Pakistan's stand with regard to Kashmir would do well to study the views and actions of the Government of India with regard to the related cases of Hyderabad and Junagadh also. It is particularly incumbent upon the Security Council to do so, not only for the better appreciation and appraisal of the Kashmir case but also because the Hyderabad and Junagadh cases are matters of which the Council is seized.

On 8 March 1948, addressing the Security Council at its 264th meeting, the then representative of India explained India's position in respect of accession in these words:

"No doubt the Ruler, as the Head of State, has to take action in respect of accession. When he and his people are in agreement as to the Dominion to which they should

accede, he applies for accession to that Dominion. However, when he takes one view and his people take another view, the wishes of the people have to be ascertained. When so ascertained, the Ruler has to take action in accordance with the verdict of the people. That is our position."

It was not a gratuitous offer on behalf of India, as has just been suggested by the representative of India, that the question of the accession of Kashmir to India, or to Pakistan should be settled on the basis of a free and impartial plebiscite. At the time when India made that reservation to the accession, or made that offer—one may call it by whatever name he chooses—it had before it the problem of Junagadh, which had already acceded to Pakistan on 15 September. Junagadh had entered into a standstill agreement with Pakistan on 15 August, and had acceded to Pakistan on 15 September. And up to that point—I wish to emphasize this in respect to Junagadh—there had not been a single incident in Junagadh itself between the Ruler and his people. Nevertheless, there was that case, which India had already raised, as I shall presently show, in respect of which India wanted a plebiscite held. And in the background there was the problem of Hyderabad. It was in order to suit India's interest in respect of those States that this principle was evolved and put forward.

Let us accept that principle, but let us see how that principle was applied in practice to the three cases in dispute.

In the case of Hyderabad, the Ruler was a Muslim; the majority of the people were non-Muslim. The Ruler, the Nizam, did not desire to accede either to India or to Pakistan. He desired to enter into special treaty relations with the Government of India in order to preserve a fair measure of independence for his State. The Government of India refused to accept that position and demanded that the State should accede to India unconditionally. The Nizam offered to hold a plebiscite under United Nations supervision in order to ascertain the wishes of the people of the State on the question of establishing a political relationship with India on the basis of accession or by means of a treaty. The Government of India rejected the

offer. What it said was in effect this: "You accede first, and the plebiscite can then be held."

When addressing the Security Council on the subject of Hyderabad on 19 May 1949 [425th meeting], I urged that that was at least an acceptance on behalf of India of the principle that it was for the people of the State to decide whether they wanted to remain independent or enter into accession with India. My learned friend, Sir Benegal N. Rau, desired to intervene when I said that, and naturally I yielded to him. He then explained that, although India had said that there should be a plebiscite, there was no intention of giving Hyderabad the choice of independence. The only choice to be offered to Hyderabad was this: either to accede to India, or to accede to India. On that the plebiscite would be held.

However, that was the position of India with regard to Hyderabad. That is what the actual position was. The policy is set out in a White Paper on Hyderabad, issued by the Government of India on 10 August 1948. I shall invite the attention of the Council to three brief extracts from it. The first is the following:

"The Government of India is firmly of the view that, whatever sovereign rights reverted to the States on the lapse of paramountcy, they vest in the people"—I repeat: "they vest in the people"; there is no question of the Ruler—"and conditions must be created in every State"—this was not a generous or a charitable offer in respect of Kashmir only—"for a free and unfettered exercise of these rights."

In the next extract, the White Paper quotes the following declaration made by Sardar Vallabhbhai Patel, the Deputy Prime Minister and Home Minister of India, on 27 August 1947:

"If, however, the Nizam's Government is still unable to decide its course in the only right direction in which it lies"—that is to say, to accede to India—"His Exalted Highness must agree to submit the issue to the judgment of his people and abide by the decision. We, on our side, will

be content to accept whatever might be the result of such a referendum."

The third extract from the White Paper is the following:

"When, therefore, the Nizam and his Government complain against the so-called denial of self-determination, they mean, in fact, that a small clique should have unfettered power to dominate the masses."

That is what India claimed: that a Muslim Ruler of a predominantly non-Muslim population should not have the right to determine the question of the accession of this State or the lack of accession, of keeping its independence. I shall repeat:

"When, therefore, the Nizam and his Government complain against the so-called denial of self-determination, they mean, in fact, that a small clique should have unfettered power to dominate the masses.

"The Nizam's Government wishes to hold a plebiscite under the conditions in which a small militant group controls the destinies of the people and the *Razakars*"—that is to say, the volunteers, like the State Militia in Kashmir—"are left free to terrorize the people into submission. A plebiscite without an interim government representative of and satisfactory to the majority population in Hyderabad will only be a fraud on the people."

And that is the fraud that India has consistently tried to persuade the Security Council and the Commission to let it practise in Kashmir.

The plebiscite is to be held, to use the words of the White Paper, under the conditions in which a small military group—the armed forces of India—control the destinies of the people, and the *Razakars*—in the case of Kashmir, the State forces and the State militia—are left free to terrorize the people into submission. That is what the Government of India said it would

not tolerate in Hyderabad. A plebiscite, yes; but let the Nizam first accede to India so that by accession India comes into military charge of the State—in charge of its communications, in charge of its external relations and practically an over-all supervision of the whole of the State, and then let the plebiscite be held. That is what India claims in respect of the State where the Ruler was a Muslim and the majority of the people were non-Muslims.

Now when that could not be held, and the Nizam did not agree, what did India do? How far did it respect the sovereignty of the Nizam and the integrity of his State? India marched its troops into Hyderabad, and they have been in military possession of the State in spite of the fact that before the military forces of India marched into Hyderabad, the case of Hyderabad, under the Nizam's directions, had been brought before the Security Council [S/1317] and was then pending before the Security Council. India marched its troops in, they have been in military possession, and it has since been announced that the Nizam has now acceded to India.

That, in brief, was the Hyderabad case and those were the principles put into force by India in respect of Hyderabad.

Junagadh, as I have said, entered into a standstill agreement with Pakistan on 15 August, and acceded to Pakistan on 15 September 1947. The Government of India at once objected both to the standstill agreement, when it took place, and later on to the accession, when it took place. Why did it object? As I have submitted there had not been a single incident in Junagadh. And if it was for the Ruler to decide, the Ruler had decided. But the Government of India maintained most strenuously that Junagadh's accession to Pakistan was in utter violation of the principles on which the partition of the country had been agreed upon and effected. Now what is the meaning of India's objection that the accession of Junagadh to Pakistan was in utter violation of the principles on which the partition of the country had been agreed upon and effected? It means that Junagadh had a majority population of non-Muslims. The partition of India had taken place on the principle of a majority of Muslim areas in Pakistan and a majority of non-Muslim

areas in India, and therefore a State with a majority non-Muslim population acceding to Pakistan was in violation of the principles on which the partition had been agreed upon and effected. India also went on to assert that it was an encroachment on Indian sovereignty and territory, and that it represented an attempt to disturb the integrity of India.

However, the Security Council is well aware, as I shall show when I come to that portion of my case, that the accession or so-called accession of Kashmir was attempted to be effected under conditions very different from those in which the accession of Junagadh to Pakistan took place. Nevertheless, even assuming that there had been an accession, cannot Pakistan with equal justice retort with regard to Kashmir in the very words employed by the Government of India in respect of Junagadh, that Kashmir's accession—so-called, according to India—to India is “utter violation of the principles on which the partition of the country was agreed upon and effected”, that it is an “encroachment” on Pakistan's “sovereignty and territory”, and that it represents “an attempt to disturb the integrity” of Pakistan? This is the language of the Government of India. If it applied to Junagadh, and I assume India was convinced that this language was justified in respect of Junagadh and applied to it, why does it not apply equally to Kashmir? What is the distinction?

The Government of India insisted that on the basis of geographical, economic and military considerations, and on that of the fact that the majority of the people of the State were non-Muslims, Junagadh should have acceded to India, and that in any case the final decision with regard to this matter must lie with the people of the State.

But what did India propose? How was the decision, the final decision, the wish of the people of the State, to be ascertained? Under what conditions? India proposed that the question of accession should be settled either by negotiation, that is admitting India's claim to the accession of Junagadh, or by a plebiscite organized under the joint control of the State of Junagadh and the Government of India: the State of Junagadh

and the Government of India—and the accession had been to Pakistan.

If this was a fair offer, if this was a just offer, if this was an honest offer, why cannot Pakistan with equal justice, equal fairness and equal honesty contend that the ascertainment of the wishes of the people of Kashmir should be by means of a plebiscite held under the joint control of the State of Kashmir and the Government of Pakistan? If that was fair in regard to Junagadh, why is it not equally fair with regard to Kashmir? I shall in this connexion, quote the Prime Minister of India. On 12 September 1947, long before there was any question of the accession of Kashmir, the date of which has been stated by the representative of India quite correctly—whatever took place, whether it was accession or not, it was on 26 October—long before that, on 12 September, the Prime Minister of India sent a telegram to the Prime Minister of Pakistan from which I quote:

“The Dominion of India would be prepared to accept any democratic test in respect of the accession of the Junagadh State to either of the two Dominions. It would accordingly be willing to abide by the verdict of its people to this matter, ascertained under the joint supervision of the Dominion of India and Junagadh. If however the Ruler of Junagadh is not prepared to submit this issue to a referendum, and if the Dominion of Pakistan, in utter disregard of the wishes of the people and of the principles governing the matter...” —the principles governing the matter being, obviously, that it was a majority non-Muslim State—“wishes to enter into an arrangement by which Junagadh is to become a part of the Federation of Pakistan, the Government of India cannot be expected to acquiesce in such an arrangement.”

Why cannot this be applied to Kashmir? In Kashmir, in the circumstances to which I shall come, the very fraud practised by the Ruler upon his people gives India all the rights—and they have been claimed on behalf of India before—which the representative of India has claimed today before the Security Council.

Did not the accession of Junagadh to Pakistan, as I have said, before any incident had occurred and when there was no trouble whatsoever except protests from the Government of India, give corresponding, if not greater rights to Pakistan in respect of Junagadh? But after the accession, on 22 September the Governor-General of India, in a telegram to the Governor-General of Pakistan said as follows—and I quote from that telegram:

"As regards accession of Junagadh to Pakistan your attention is invited to our telegram addressed to the Prime Minister of Pakistan and delivered personally at Government House, Karachi, by Lord Ismay on 12 September, explaining fully the Government of India's position regarding Junagadh. The Pakistan Government has neither acknowledged receipt of our message nor replied to this nor to previous dispatches on the subject. Instead, the Pakistan Government has unilaterally proceeded to action in which it was made plain the Government of India could never and does not acquiesce. Such acceptance of accession by Pakistan cannot but be regarded by the Government of India as an encroachment on Indian sovereignty and territory and inconsistent with the friendly relations that should exist between the two Dominions. This action of Pakistan is considered by the Government of India to be a clear attempt to cause disruption in the integrity of India by extending the influence and boundaries of the Dominion of Pakistan in utter violation of the principles on which the partition was agreed upon and effected.

"In these circumstances I hope that it will be possible for you to prevail upon the Government of Pakistan to reconsider its attitude on the accession of Junagadh. But if the matter is not reconsidered, the responsibility of the consequences must, I am compelled to inform you, rest squarely on the shoulders of the Pakistan Government. The Government of India is, however, still prepared to accept the word of the people of Junagadh in the matter of accession, the plebiscite being carried out under the joint supervision of the Indian and Pakistan Governments."

Now, again, for a moment I shall re-read this portion substituting Kashmir for Junagadh and see how it sounds to the representative of India and to the Security Council:

"The Government of India has unilaterally proceeded to action in which the Government of Pakistan could never and does not acquiesce. Such acceptance of accession by India cannot but be regarded by the Government of Pakistan as an encroachment on Pakistan's sovereignty and territory and inconsistent with the friendly relations that should exist between the two Dominions. This action of India is considered by the Government of Pakistan to be a clear attempt to cause disruption in the integrity of Pakistan by extending the influence and boundaries of the Dominion of India in utter violation of the principles on which the partition was agreed upon and effected."

I shall not read the rest of it.

In view of these telegrams which were exchanged in the month of September, before any of these incursions took place, and to which the representative of India has referred, the position of the Government of India was that a State with a non-Muslim majority among its people must accede to India. Consequently, then, a State with a majority of Muslim population should accede to Pakistan. Those were the principles that India was insisting upon, but then, if in spite of this, if in contravention of this principle which applied to the very partition of India itself, one Dominion proposes to accept accession on the part of a State the majority of the population of which does not correspond to the majority population of the Dominion itself, then the other Dominion would not acquiesce in such arrangement and would not recognize it. The consequences that flow from it will rest squarely on the shoulders of the Government that accepts the accession.

In respect of Kashmir, India is in that position. It unilaterally accepted accession, although the representative of India this afternoon called it a "tentative accession". So it was, if it was anything at all. Also, Lord Mountbatten, the Governor-General, in accepting it, intimated to the Maharaja that the

question of accession would be decided by the free expression of the will of the people. Although these factors themselves take away from that accession the legal character with which, since then, the Government of India had tried to invest it, nevertheless, how does the Government of India expect that Pakistan, so far as it is concerned, should treat the attempted accession of Kashmir to India any differently than India was prepared to treat the actual accession of Junagadh to Pakistan?

The President (*translated from Spanish*): I am sorry to interrupt the representative, but perhaps, as it is getting late, it would be advisable to adjourn and meet again tomorrow at 3 p.m.

Sir Mohammed Zafrulla Khan (Pakistan): If the President will permit me an extra two or three minutes to conclude this submission on Junagadh, I am quite willing that the Council should adjourn, as we shall have arrived at the end of one topic. It will not take more than two minutes for me to conclude this part.

While these negotiations were still proceeding between the two Governments, the Government of India marched its troops into Junagadh. As a matter of fact, even before it did that, a Provisional Government of Junagadh was set up in Indian territory. That is important when the Council comes to assess the allegations that have been made of encouragement given to the people who were fighting for their liberty in Kashmir on behalf of Pakistan.

A Provisional Government of Junagadh was set up in Indian territory and finally, on 9 November 1947, India marched its troops into Junagadh and forcibly annexed the State which had acceded to Pakistan. Subsequently a farcical plebiscite was held—India was in military occupation of the State—and the State was formally incorporated into the Indian Dominion. Pakistan's complaint with regard to Junagadh is still pending with the Security Council, and this plebiscite was held by India notwithstanding this pendency of the question of Junagadh, with which the Commission on India and Pakistan would proceed to occupy itself when directed by the Security Council to do so.

121. Text of the Speech made by Sir Mohammed Zafrulla Khan (Pakistan) in the Security Council Meeting No. 464 held on 8 February 1950

I concluded yesterday afternoon my submission on the principles that emerged from the stand taken by India on the question of the accession of Indian States to one Dominion or the other. These principles were that, so far as Lord Mountbatten, the then Viceroy and Governor-General of India, was concerned, he advised the States to base their decision on factors of geographical compulsion and strategic and economic importance.

The attitude of the Government of India was that the States were to decide the question of accession in accordance with the principle upon which the partition of India was agreed to and was effected; that is to say, the majority non-Muslim States should accede to India and the majority Muslim should accede to Pakistan. But if it so happened that a Ruler who did not belong to the community to which the majority of his people belonged was not prepared to accede to the Dominion to which the majority of his people belonged, the decision must be left to the people. It was clearly enunciated by Sir Sardar Vallabhbhai Patel, the Deputy Prime Minister of India, that on the lapse of British suzerainty, sovereignty in the States lapsed to the people, and that the decision was the decision of the people. If the Ruler took a decision in which the people did not concur, then the Dominion against which a decision was taken would not be prepared to recognize the act of accession. Any consequences that might flow from that would rest squarely upon the shoulders of the Dominion which had encouraged accession to it.

Let us first take the criteria laid down or suggested by Lord Mountbatten, apply them to Kashmir, and see what the situation was with reference to Kashmir; that is to say, the geographical situation, and economic and strategic factors.

The State of Jammu and Kashmir, as the Council is aware, was acquired by the great-grandfather of the present Maharaja by treaty from the British in 1846, a treaty known as the Treaty

of Amritsar, by an act of purchase in return for 75 lacs of rupees, which roughly amounts to a couple of million dollars. It has an area of 84,471 square miles, mainly mountainous but with only two plains, the Valley of Kashmir, which is girded around by mountains, and the Jammu plains. It is situated in the extreme northwestern corner of the undivided sub-continent of India. To appreciate its geographical position and certain other factors that arise from that position I have taken the liberty of supplying the Secretariat of the Council, for the use of the members of the Council, with copies of a map entitled "West Pakistan and Jammu and Kashmir State". If those maps are distributed and if the members of the Council will be pleased to look at them, certain factors will become perfectly clear.

A look at the map will show that the boundary between the State of Jammu and Kashmir and the Dominion of India bisects the mountainous range practically throughout its whole length. I should explain that near Pathankot, which is a railway terminus near that boundary on the Indian side, there is a gap of about twenty to thirty miles which is plainland. Then the mountains begin and the whole of the common boundary from that point between India and Kashmir is mountainous. Most of the mountains are high and inaccessible. The direct contact with India which can be used for purposes of normal communication with this State is through that gap of about twenty to thirty miles in width. The importance of that factor is that India, as I shall explain when I come to the strategic aspect of the matter, has nothing to fear from the side of Kashmir, inasmuch as there is scarcely any possibility of direct communication between Kashmir and India.

With regard to the boundary between Kashmir and Pakistan, it will be seen that the greater part of the boundary runs along the plains and cuts across three of the main rivers that flow through Pakistan. Then next comes the question of communications, which, of course, is one of the corollaries of the geographical situation. Before the partition, all three roads that led into, and of course out of, Kashmir passed through Pakistan. One started with Srinagar and went in the direction

of Rawalpindi, but bifurcated at Domel; the other branch of that road went down to Abbottabad. The one from Srinagar to Rawalpindi is quite clear and near the boundary of the Kashmir State; as can be seen, it bifurcates into another one which joins the railway line at Hassan Abdal, but passes through Abbottabad. The other one travels from Srinagar to Jammu and from Jammu to Sialkot into West Pakistan, although with regard to this latter road it is necessary to submit that it crosses two very high ranges, the Banihal, which is certainly over 8,000 feet, and may possibly be near 9,000 feet. That road is snowed up four to five months in the year and cannot be used for ordinary traffic, so that all year-round communications between the State and the outside world run through Pakistan and still run through Pakistan now.

Since the partition, and after the Indian forces were moved into the State of Jammu and Kashmir, Pathankot has been linked by road with Jammu, so that India, too, now has a direct road communication with the State, but again from Jammu onwards to Srinagar into Kashmir itself, the same road goes over this Banihal Pass, and it is snowed up from four to five months in the year. Thus, the geographical position and communications both indicate the natural integration of the State of Jammu and Kashmir with Pakistan, and not with India. The State has a very short railway line running from Jammu in the direction of Sialkot, and that obviously again runs from the State into Pakistan.

As I have already indicated, three Kashmir rivers—all the rivers that take their origin in or pass through Kashmir—flow into Pakistan, so that from the geographical position and the position of communications, its integration is Pakistan, and the only rail link is with Pakistan.

Yesterday (463rd meeting) the representative of India stated that the greater part of the trade of Kashmir, so far as its destination was concerned, was with India before partition: that is, with India as it is defined today. I join issue with him over that statement. To start with, the one single article which is outstanding with regard to Kashmir's resources and trade is timber. The timber is cut down in the mountains. It is dragged

down to the rivers and streams and floated down the rivers and streams into Pakistan; and the two markets for Kashmir timber have always been Wazirabad, which, it will be seen, is next to Sialkot on the map, and Jhelum, which is on the Jhelum River, where the river intersects the road and the railway between Wazirabad and Rawalpindi. Thus the whole of the timber produce of the State passed through and was marketed and sold in Pakistan. There was no other means; there is no other means of conveying that timber out of Kashmir. The natural means is by way of the rivers.

The Security Council can judge the volume of this trade from the fact that 20 to 25 per cent, not of the trade of Kashmir, but of the revenue of the Kashmir Government, was derived from the sale of this timber.

The next item with regard to the trade of Kashmir is fresh fruits and vegetables. Again, as the Council will appreciate, the fruit starts from Srinagar. Whichever way it goes out, whether by the Banihal route or whether along the Jhelum Valley route to Rawalpindi, it has to travel 200 miles by road before it becomes available to the nearest markets, which are at Rawalpindi and Sialkot, both markets being in Pakistan. Obviously, fresh fruit in the condition in which it has to travel over those roads, where there is no arrangement for refrigeration and so on, could scarcely be kept for any longer period after its arrival in Pakistan. The same applies to fresh vegetables, so that these three large items of export from Kashmir—timber, fresh fruits and vegetables—obviously went to Pakistan and could not go elsewhere.

As regards woollens and carpets also, the largest sale of these was in the West Pakistan area. With regard to other goods, such as the products of cottage industries and silk work, no doubt they sold farther afield, but nevertheless their transit, that of those that sold in Pakistan and of those that sold outside, was all through Pakistan, so that again from the point of view of its economy, Kashmir was integrated naturally with Pakistan and is integrated naturally with Pakistan. In return, such commodities as Kashmir needed were all obtained from Pakistan, so that the economy is interdependent with the

economy of Pakistan. It is true, of course, that, like every other trade, both on the sub-continent of India and Pakistan and elsewhere in the world, there is a certain amount of trade with the outside world, but that really does not affect the question with which of the two Dominions the economy of Kashmir is integrated. But again with regard to its exports abroad, the greater part of the export took place through the port of Karachi, which again, as the Council will observe, is its natural port. Once these exports have arrived in Rawalpindi or Sialkot, the nearby seaport by rail is Karachi, and therefore these circles took that natural route.

So far as Kashmir's imports are concerned, Pakistan used to supply to Kashmir all its official civil supplies, at any rate, soap, rock salt, grain, pulses, cotton and petrol, but there is another and an almost overwhelming economic factor that must be taken into account. It is this. The three rivers—beginning at the top of the map, the Indus, the Jhelum and the Chenab—which flow from Kashmir into Pakistan, control to a very large extent the agricultural economy of Pakistan itself. The economy of the whole of West Pakistan is based almost entirely upon its irrigation system, that is to say, upon the application of scientific methods to make the water of these rivers available for purposes of agriculture through irrigation works and irrigation channels. As much as 19 million acres of land is irrigated in West Pakistan from the waters of these rivers. There is a system of carrier channels by which, in the end, effectively to pool the water of these rivers and then to distribute it through these irrigation channels.

If Kashmir were to accede to India, this supply would be cut off altogether. This is not an idle apprehension on the part of West Pakistan. I am aware that every one of the members of the Security Council must think, "Oh, but that is preposterous. How could that happen? These are international rivers and the systems that are based on them would continue in operation. It does not matter to which State Kashmir accedes." But that this apprehension is not idle, I shall be able to indicate in one moment.

If members of the Council will now kindly turn to the map again, they will see that the boundary between West Pakistan and India itself cuts across three rivers. Starting from the Indian side, the first is the Sutlej; the second is the Beas—which is actually cut by the boundary near Amritsar, although there is a mistake in this map; and the third, the Ravi, which is cut near Pathankot. The Sutlej, the Beas and the Ravi have been cut across by this boundary. I will not go into the question of the fairness or the justice of the methods by which the boundary was drawn, but the fact is that it stands there. A good deal of the irrigation system of West Punjab is dependent upon these rivers also. As I have said, we obtain our supply of water from all these six rivers.

On 1 April 1948, that is, in the April following partition, India took up the position that, being the upper riparian State in respect of these rivers, inasmuch as they flow from the mountainous ranges into India and then on into Pakistan, India is the owner of every drop of water in them and is entitled, if it so chooses, to cut off the entire supply which flows down into Pakistan. On the basis of that claim India actually cut off the supply on 1 April 1948, and it was not restored until six weeks later when, at the point of the pistol, India had obtained an agreement from Pakistan that Pakistan would not only go on paying, as it was paying and was prepared to pay, its proportionate expenses in respect of the running of these systems and the interest charges on the capital involved, but also seigniorage, that is to say, the price of the water supplied. But, obviously, Pakistan could not accept the claim of India and was not willing to pay the price of the water in the shape of seigniorage, but the agreement arrived at was that Pakistan should deposit that amount of seigniorage in escrow pending the settlement of the dispute. Each side, of course, reserved its legal rights, and so on, but for the moment water is being supplied to us from these rivers on payment not only of the legitimate charges which we have never disputed and have gone on paying, but on the deposit also of what India claims as the price of the water to be supplied from these rivers.

One interesting factor in that connexion is that after the partition it was claimed that the whole of this irrigation system which operates in West Punjab had been a joint asset of the whole Province before the Punjab was divided into East Punjab and West Punjab, and that, therefore, it ought to be valued. It was valued. India insisted that it ought to be valued at a figure higher than the original cost, inasmuch as it was a very profitable investment. The arbitral tribunal which was dealing with these matters decided that it ought to be valued at twice its original cost. It was so valued. West Punjab was debited with the value of its proportional excess of share of this irrigation, India was credited with it, and, as soon as India obtained that credit, it thereupon cut off the water. I know that the Security Council is not yet seized of that dispute, but it shows that whether India is right or wrong—I am not, for the moment wanting anyone to decide who, in that dispute, is right or wrong—India does claim that, as the upper riparian State, it is entitled to cut off the whole of the water flowing into Pakistan from those rivers. Assume, for one moment, that Kashmir were to accede to India. The same would apply to the other three rivers, and not only the water of the three rivers which flow from India into Pakistan, but that of the three rivers which flow from Kashmir into Pakistan, would also be denied to Pakistan, which would be left completely high and dry. Nineteen million acres would be turned into a waste, and millions of people would be faced with starvation and extinction. That is an economic factor the like of which cannot be produced in a comparable case anywhere else.

So much for the geographical and economic factors. What about the strategic factors affecting the situation? Again, I would beg the Council to pay attention to the matter. As I have already indicated, India's security would not be affected one ounce by the accession of Kashmir to Pakistan. There is nothing that would be placed in jeopardy if that should happen. The barrier between Kashmir and India, except for those twenty miles, is all mountainous, and the addition of those twenty miles to the rest of the very long frontier between Pakistan and India—from Karachi right up to Lahore, and

then through Sialkot towards Jammu—would make no difference to the security of India, to its strategy or to its defence arrangement. Twenty miles added to, say, 1,000 miles, makes no difference whatsoever. In any case, if there were friendship between Pakistan and India, the question would not arise. But supposing there were not. Then the measures that India would have to take with regard to the 1,000 miles would obviously cover these additional twenty miles also.

On the other hand, look at the question from the point of view of Pakistan. Take the main railway line, running, as can be seen from the map, from Lahore through Wazirabad to Rawalpindi and on to Peshawar. It has a road running parallel to it throughout. These are the two main strategic road and railway systems of West Pakistan. The whole of the defence of that area, which once included the defence of India also, and would still affect the defence of India, is based upon the fact that this line would not be threatened from the flank. If Kashmir acceded to India, the whole of that flank would be threatened and broken. The border of Kashmir for quite a long distance, more than 150 miles of this railway and road, runs parallel to the railway and road within a few miles. Now, what would happen? Pakistan might as well throw in its hand so far as making any preparations for defence is concerned. India would obtain direct access to the tribal areas and, through the tribal areas, on to Afghanistan. Pakistan's position would become absolutely untenable. Not only that, but even India's own defence would to that extent be threatened, because the defence of the Pakistan frontier, and consequently of India also, from any threat to it from the northwest, has to be built up along the River Indus and then, beyond the River Indus, between that river and the international boundary known in that area as the Durand Line. If we were threatened on this line, if we were always threatened on our flanks, what attention could we pay to the building up and the maintenance of our defence arrangements along the frontier? It would lay a burden on Pakistan which Pakistan could not possibly undertake to bear.

Again from the point of view of defence, quite as many as 10,000 Pakistan soldiers are drawn from certain areas of the

Kashmir State, mainly Poonch. They have their homes there—we shall have to make reference to them later on, in the course of the consideration of other factors—and that fact would give rise to a problem for Pakistan which, in itself, would be of great magnitude.

Look at it, then, from any point of view one may choose: India is under no necessity nor compulsion to require or to need the accession of Kashmir to itself. India has merely entered upon a gamble. If it succeeds in that gamble, it can crush and break Pakistan—and that is the object of that gamble. India does not need Kashmir from the point of view of any of its necessities. The possession of Kashmir can add nothing to the economy of India or to the strategic security of India. On the other hand, it is vital for Pakistan. If Kashmir should accede to India, Pakistan might as well from both the economic and the strategic points of view, become a feudatory of India or cease to exist as an independent sovereign State. That is the stake of the two sides; these are the considerations.

None of those considerations, in that degree or intensity, applied to any other of the Indian States, particularly with regard to the States as to which India's attitude was that, if they did not agree to accede to India, India would take military possession of them. And India did take military possession of them.

Yesterday, the representative of India, when talking about the constitutional position, said that the Indian States are free—even after the framing and the coming into force of the Indian Constitution, which came into force on 26 January last—to accede or not to accede. But the extent to which they are free to accede or not to accede became quite apparent from the history of Junagadh and Hyderabad, which, in brief, I submitted to the Council yesterday. According to the representative of India, Hyderabad is still free to accede or not to accede to India. Yet, it was not allowed to make the choice not to accede before the Constitution itself was framed.

However, we are not concerned directly with that one point. What we are concerned with is this: that the accession of Kashmir to India means practically nothing to India on the

basis of these factors that I have been discussing, but is of absolutely vital importance to Pakistan.

Those are the factors which Lord Mountbatten suggested or recommended to the Rulers as the basis upon which their decision with regard to accession should be made. India says "no".

Apart from these—it does not matter whether they exist or do not exist—the decision should be based upon the principles upon which the partition of India was agreed to and was effected, that is to say, upon the basis of the population. Well, let us see what the case is with regard to population. The State of Jammu and Kashmir is a composite State in the sense that it has two provinces, one being the Province of Kashmir and the other being the Province of Jammu. The total population of the State is approximately 4 million. The figures that I am about to cite are based upon the 1941 census, which provides the latest available figures. On the basis of those figures, in the Province of Kashmir, taken by itself, and apart from Jammu, the Muslim proportion of the population was over 93 per cent; in the Province of Jammu, the Muslim proportion of the population was 61 per cent. I wish to emphasize that because, in some of the Press reports, it has been suggested that in the Province of Jammu, taken by itself, the Muslims were not in the majority. That is not the case. The Muslims were in the majority in each Province. In the whole of the State of Jammu and Kashmir, taking into consideration the two Provinces, the Muslim proportion of the population is over 77 per cent. Those are the facts as far as population is concerned.

Let one look at it from whatever point of view he does. If one takes the factors that were stressed by Lord Mountbatten, Kashmir ought to have acceded, and ought to accede, to Pakistan. If one takes the factors upon which India has insisted throughout, Kashmir might to have acceded, and ought to accede, to Pakistan.

But, in addition to the population factors, there are all the cultural ties, all the ties that religious brotherhood has created; there is inter-marriage and there are inter-relationships between the people of West Pakistan and the people of

Kashmir, and all the other things that bind any two communities together. Pakistan has always been the natural outlet for the people of Kashmir, both from the tyranny of their Ruler and for the development of their culture and their talents. I doubt whether a dozen Muslims of Kashmir could be named who, living under the Maharaja during the last 100 years, have attained to any position of eminence in any walks of life. I challenge anybody to name one dozen who are well known. On the other hand, people from Kashmir, once they have arrived in Pakistan, have always risen to the highest positions. The late Sir Mohammad Iqbal, the very founder and originator of the idea of Pakistan, was a Kashmiri. He resided, of course, in Pakistan itself; he would not have been tolerated in Kashmir. The present Governor-General of Pakistan is a Kashmiri. The present Governor of Sind, in West Pakistan, is a Kashmiri. The present Minister of the Interior in the central Government of Pakistan is a Kashmiri. It seems that the moment a Muslim Kashmiri leaves Kashmir and comes to Pakistan he receives the fullest scope for his cultural and intellectual development, for which there is no room in Kashmir itself. That speaks volumes for the conditions that exist.

Pakistan may be called the Beast of Belsen, as Sheikh Abdullah has called it; it may be so described in photographs to which the Kashmir Government has had recourse as a means of propaganda against Pakistan. But how is it that the Muslims of Kashmir have no scope, and have had no scope for more than a century, for any development in Kashmir itself, whereas, the moment they set foot in Pakistan, they have every scope and have always risen to positions of eminence and to the highest intellectual development? That in itself is the best answer to such posters. This word in the middle, in Urdu, means Pakistan. This is what the Government of India is treating its people about Pakistan.

How then did the dispute arise? When all these factors were in favour of the accession of Kashmir to Pakistan, how did the dispute arise? There again, I join issue with the representative of India in regard to the statement he made yesterday, that up to 22 October 1947 there was no trouble whatever and that it

was only the incursion of the tribesmen on that date that created the whole trouble and necessitated the marching of Indian troops into Kashmir, and that those troops did not go in to combat the freedom movement—according to him, there was no freedom movement—but only to deal with the tribal incursion. Very well; let the Security Council judge, after it has heard all the facts, what the actual situation was.

On the establishment of Pakistan, that is to say on the partition becoming effective on 15 August 1947, there was great jubilation all through the State of Kashmir, particularly among the Muslims, that the time had now come for their liberation from the unspeakable tyranny of the Dogra Raj, against which they had struggled for a hundred years. "Pakistan Day" was celebrated with great enthusiasm by the Muslims throughout the State, including the towns of Srinagar and Jammu. The principal political organization of the State, namely the Muslim Conference, declared unequivocally in favour of accession to Pakistan. We believe that a good proportion of the membership even of the National Conference, of which Sheikh Abdullah is the head, if left to itself would favour accession to Pakistan. The Maharaja's Government entered into a standstill agreement with the Government of Pakistan on 15 August 1947 and, in pursuance of that agreement, the management of the line of railway owned by the Government of Jammu and Kashmir and of the postal and the telegraphic services and customs in the State continued to vest in the Government of Pakistan. While this, I believe, was done in order to create an impression among the Muslim sections of the population that the Maharaja intended to accede to Pakistan, it now appears that that was not the intention of the Maharaja, but that it was merely a device to lull the population into a sense of security and to cause them to believe that the standstill agreement would ripen into accession to Pakistan. Also, of course, the object was that those services should continue to run as efficiently as they had done hitherto.

The Maharaja almost immediately thereafter embarked upon a systematic plan to import Hindus and Sikhs from East Punjab to overawe his Muslim subjects into admitting accession to

India. He also began to use his troops. Now the whole question is, when did this movement on behalf of the people and this repression on the part of the Maharaja start? According to the representative of India, nothing had happened until 22 October, and what then happened was an incursion of tribesmen into a peaceful State. That, according to him, was what started the whole trouble. That is a crucial point. It was asserted before the Security Council by Mr. Setalvad when he addressed the Council in January 1948 [234th meeting] and it has been reasserted again by the representative of India, which means either that India itself is not willing to admit the undisputed facts of the situation or, which is unbelievable, that India is still ignorant of them. The representative of India appealed yesterday to me and to the Security Council to remember that date, 22 October 1947. He said he hoped that this would not be denied. We do not deny that the tribal incursion took place on 22 October 1947, but what we do deny is that there had not been a vigorous freedom movement already started within the State by the people of the State which was in progress weeks before this tribal incursion took place. As a matter of fact, the tribal incursion took place as a direct consequence of that movement, when it began to be suppressed with all sorts of brutalities and atrocities by the troops of the Maharaja, with the Maharaja himself sometimes at their head. Then the people both from Pakistan and from the tribal areas, unable to stand by and witness the further sufferings of their co-religionists in the State, did come in, and the trouble assumed the shape to which the representative of India has referred.

Now let us see what the evidence in support of my assertion is, I shall first draw the attention of the Security Council to a Press note issued by the Maharaja's Government on 12 September, from which I quote as follows:

"On 24 August 1947 . . ."—and I would beg the Council to note that date—"large and highly excited mobs collected in West Bagh Tehsil and on 25th August, disregarding all efforts to persuade them to disperse, marched on to Bagh, a town in the vicinity, where they reached the number of some

5,000, which swelled considerably during the next two days. These mobs were armed with firearms of various patterns, axes, spears and other weapons."

The measures taken to suppress this movement are the measures which became responsible subsequently for the tribal incursion. Here is an extract from an article which was published in *The Times* of London of 10 October 1948 by a special correspondent. It was published on 10 October, and therefore the material upon which it was based must have been obtained at least several days earlier and the incident to which it referred must have taken place earlier still. The extract says:

"In the remaining Dogra area 237,000 Muslims were systematically exterminated unless they escaped to Pakistan along the border."

Two hundred and thirty-seven thousand Muslims were systematically exterminated—according to the representative of India, nothing had happened—and by whom? "By the forces of the Dogra State headed by the Maharaja in person and aided by Hindus and Sikhs."

The representative of India yesterday said that he denied the assertion by Pakistan that anything had happened before 22 October. According to him, this is nothing. Here are all the elements that were present: 237,000 Muslims systematically exterminated "by the forces of the Dogra State headed by the Maharaja in person and aided by Hindus and Sikhs". This happened in October 1947, five days before the Pathan invasion and nine days before the Maharaja's accession to India. The extract was published on 10 October 1948, but it relates to those days:

"This elimination of two-thirds of the Muslim population of Jammu Province has entirely changed the present composition of East Jammu. Its communications and economic links, until then almost exclusively with West Punjab, have not been and cannot be reoriented so easily towards Pathankot."

Pathankot is India's only road and rail head near the State. That is the point I had made previously. "There can be no doubt which Dominion the whole State would join ultimately if population, geography and economy were to decide."

Of course, the people of Pakistan were deeply stirred by all these events. They could not remain indifferent when their brethren were being massacred, exterminated, compelled to leave their homes, to seek refuge in Pakistan. Therefore, that movement started from Pakistan and the tribal areas into Kashmir; they had to go to their assistance.

Perhaps this will still be regarded as an assertion on the part of Pakistan. Let me quote to the Security Council what Sheikh Abdullah himself said on that point. It is possible that the representative of India will be disposed to give credence to what Sheikh Abdullah said, as against what other evidence might indicate. Sheikh Abdullah gave a Press statement in Delhi on 21 October 1947. The date is significant; it was prior to any tribal incursion into the State of Kashmir. Of course at that time Sheikh Abdullah was not so completely subservient to the Government of India or to other interests as he has since become. He had been in jail under sentence of treason against the Maharaja—which is to his credit—and was released towards the end of September, I believe, at the intervention of Prime Minister Nehru, and was then in Delhi. He did not know what was likely to happen, but in any case he was not yet in any position of authority, although he was hoping to be so. But on 21 October he gave a Press interview in the course of which he said this—first, with reference to the strategic position:

"Due to the strategic position that the State held, if his State joins the Indian Dominion, he thought Pakistan would be completely encircled."

The map shows that it is perfectly obvious; nevertheless, the representative of India might question it. But that was Sheikh Abdullah's own appreciation of the strategic position. Explaining the difficulties with which the people were beset in making up their minds without responsible government, Sheikh Abdullah said:

"The happenings in certain States, such as Patiala, Bahawalpur and elsewhere, have naturally caused apprehension in the minds of the Muslims in Kashmir who formed the majority of the population"—in one word, those areas where the Muslim populations had been massacred—"they were afraid that the State's accession to India portended danger to them."

That, according to Sheikh Abdullah, was the state of feeling of the Muslims of Kashmir. Later on in the statement he said:

"The present troubles in Poonch"—and I will remind the Council that he was speaking on 21 October, although the representative of India will say "What troubles?" According to the representative of India, there was no trouble at all; nothing had happened, but, according to Sheikh—"The present troubles on Poonch were because of the unwise policy adopted by the State. The people of Poonch who suffered under their local Ruler, and again, under the Kashmir Durbar, which was the overlord of the Poonch, had started a people's movement for the redress of their grievances. It was not communal."

That is what the representative of India denies. He said there had been no people's movement; nothing had happened. I do not know what name he will give to Sheikh Abdullah for having made that statement. Sheikh Abdullah went on to say "That movement having started, the Kashmir State sent its troops and there was panic in Poonch".

Again, according to the representative of India, the troops were there only to restore law and order to see that nothing untoward happened. Why, then, was there panic among the people? To whose succour, for whose aid, to protect whom according to the representative of India, had these troops arrived? Sheikh Abdullah says:

"The Kashmir State sent its troops and there was panic in Poonch. But most of the adult population of Poonch were ex-servicemen in the Indian Army who had close connexions

with the people in Jhelum and Rawalpindi;"—that is to say, the neighbouring districts of Pakistan.—"They evacuated their women and children, closed the frontier and returned with arms supplied to them by willing people. The present position was that the Kashmir State forces were forced to withdraw in certain areas."

That was the position on 21 October. But nothing had happened. The Kashmir State forces were defeated and had to withdraw from the area; these men who were fighting had evacuated their women and children into Pakistan. And yet nothing had happened; it was all peace and quiet; and this was before 22 October. When the delegation of India goes on making repeated assertions of that kind, how much credit is to be given to its airy statements that India is merely there to restore law and order? Why was there panic if it was only a matter of the restoration of law and order? Why did these men evacuate their women and children into Pakistan? Why do human beings act like that? Not purely out of frolic and fun. They would do that when they know that their lives or their honour, or both, are in danger and that the time has come to sell their lives. They started doing it. And they did it so effectively that the Maharaja's forces had to withdraw from the area.

I do not know whether the representative of India would pay much attention to that. But there is further evidence on that point. Mr. M. N. Roy, who is a well known Indian patriot, whatever his political and ideological views may be, made a contribution to the *Radical Humanist* of Bombay in its issue of 2 October 1949, called "India's Lust for Conquest of Kashmir May Cause World War". It is a longish article but I shall quote one or two extracts from it.

"*The origin:* The Kashmir dispute originated neither in the two nations' theory nor in India's concern for liberty of the people of Kashmir, nor, again, in any strategic consideration. The origin was an undemocratic act on the part of the Government of India, although it could be justified on technically constitutional grounds. The British having

surrendered power, sovereignty reverted to the people of Kashmir, as to the people of any other part of the former British Indian Empire.

"The people of Kashmir had for years struggled against the feudal aristocracy of the ruling dynasty, backed up by British power. On the disappearance of the latter, the opportunity came for the Kashmiri people to overthrow the autocratic Ruler. The majority of the people of Kashmir being Mohammedans, it is only natural that their aspiration had the active sympathy and support of their co-religionists of the neighbourhood. India itself had pledged sympathy and support to the cause of the freedom of the people of Kashmir.

"As the Maharaja would not transfer power voluntarily to his subjects, it had to be expected that the latter would avail of the power vacuum to assert their sovereignty. The issue was entirely between the people of the State and its autocratic Ruler. Unless this basic fact is borne in mind, the Kashmir situation cannot be placed in the proper perspective.

"The rise of a parallel authority challenging the established one is a familiar feature of such a political crisis. And it was natural that, in its fight to overthrow the established authority, the new one would enlist the support [of outside sympathizers. America enlisted French support in] its struggle against Britain, and a section of the Indian Nationalists wanted to overthrow British rule with the help of Japan. So the establishment of the *Azad* Kashmir Government and its getting support, either from the tribesmen from the frontier or actually from the Pakistan Government, were quite in the order of things in the critical situation. If Abdullah had established a parallel government somewhere near the Indian border, he would have received help from the neighbourhood, also.

"In that critical moment, confronted with a popular revolt against his autocratic rule, the Maharaja declared the accession of his State to India, and the Government of

India rushed troops to Kashmir. That is how the dispute over Kashmir began. The act of the Government of India implied recognition of the constitutional right of an autocratic Ruler to regard the State as his personal property, and its people as his chattels.

"Since that was an indefensible position taken up in haste, all manner of reasons had to be invented to confuse the simple issue by raising a thick cloud of irrelevant considerations—technically legal and strategic, but mostly emotional.

"The issue thus can be restored to its original simplicity by returning to the *status quo ante bellum*. With the disappearance of British power, sovereignty has reverted to the people. The Maharaja has no constitutional *locus standi* nor has the Indian Army in Kashmir, because it went there to defend a position created by an act of the autocratic Ruler."

That is a non-Muslim patriotic political leader speaking. His political views may differ from the Government's, but he is speaking in India and he is a non-Muslim. He talks of that movement, but the representative of India says, "No, nothing had happened."

As against that, with regard to what the representative of India calls the atrocious position taken up by Pakistan, he has quoted Margaret Bourke-White's book, *Halfway to Freedom*. He was fair enough, just enough, to remark that Pakistan was not responsible for and deplored to atrocities to which the book draws attention. But he said that Pakistan did nothing to stop them or to arrest them. I shall take up both points.

In the first place, how far this lady's authority may be accepted is open to serious question. She appears to have drawn very largely upon her own imagination, and one of the very passages quoted by the representative of India proves that. That passage appears in *Halfway to Freedom*, in the opening

paragraphs of a chapter headed "Struggle for Kashmir". I shall repeat the quotation:

"While the People's Government in Kashmir's capital was completing the new constitution, with such clauses as 'Freedom of conscience and of worship shall be guaranteed for all citizens', across the border in Pakistan a thousand-year-old cry was raised: 'Islam is in danger!'"

"While the People's Government in Kashmir's capital. . .": Will the representative of India inform the Security Council—and I shall stop for that purpose—what that People's Government in Kashmir was at that date?

Whenever I attribute anything to the representative of India or to his Government, I shall quote chapter and verse. I am now reading this quotation from his actual speech: "While the People's Government in Kashmir's capital. . .". After all, this is a quotation from the speech of the representative of India, and I suppose he endorses it. I should like to know what was the People's Government in Kashmir at that date—according to him, the 22nd of October. Again I quote:

"While the People's Government in Kashmir's capital was completing the new constitution"—which new constitution?—"With such clauses as"—and then this lady puts the following phrase within quotation marks—"Freedom of conscience and of worship shall be guaranteed to all citizens"—Where is that constitution? Who was framing it? When was it framed? Where can it be had, so that we may read from it this clause, "Freedom of conscience and worship shall be guaranteed for all citizens"—"across the border in Pakistan"—this and that was happening. When an author is capable of making statements of that kind, what reliance can she claim for other statements which she makes in the course of her book?

That all sorts of regrettable incidents did occur in Baramula is not denied. As I have said, the representative of India himself was fair enough to say that Pakistan was not responsible for those incidents and that Pakistan deplored them. But he went on to say that Pakistan did nothing to stop them. Very good.

The representative of India made reference to the incidents in connexion with the convent at Baramula and the injury suffered there by the Mother Superior. On 1 January 1948, Mary Philippa, Mother Superior of all the Sisters of Saint Joseph's Hospital, Baramula, Kashmir, addressed a letter to Begum Shahnawaz and her daughter, Miss M. Shahnawaz. I quoted from the original of this letter during a previous meeting of the Security Council [229th meeting]. I shall quote it again. The Mother Superior says:

"We cannot let this season for greetings pass without sending you a very affectionate remembrance from us all with our prayers and every best for a very happy New Year and God's blessings on all your undertakings. We will never forget how you two brave girls of the Pakistan Voluntary Service risked your lives to save us from Baramula when the bombing and machine-gunning from the air made our situation there dangerous and impossible."

Who was bombing? Not the tribesmen. It has never been alleged that the tribesmen were so equipped as to carry out any bombing. Who was machine-gunning from the air? Not the tribesmen. They have no machine guns, and in any case they have no aircraft. I have no doubt that the representative of India will explain this, also when his turn comes.

At any rate, from whichever direction the danger was coming, there were Pakistani women helping as far as they could. The Mother Superior goes on: "Be sure we shall never forget you and we want to come to see you again. We have been so busy making clothes for ourselves and working at war refugee camps." It goes on to say, and the sentence is very significant: "We hope to go back to Baramula soon. Otherwise

I think we shall all join the Hazara Kashmir forces." Those are the *Azad* Kashmir forces, and not the Indian forces. "Please accept a very tiny present we have made for you as a sign of our gratitude and remembrance of you both. Yours affectionately, Mary Philippa."

Pakistan was doing something, but I plead guilty on behalf of Pakistan to the charge made by the representative of India in this connexion that Pakistan did not do what it should have done to put an end to these things. It should have marched its forces into the State of Kashmir to put an end to the persecution of the Muslims by the Maharaja's State forces, and also to restore law and order in the areas where it had been disturbed by the tribesmen. It should have done that; it did not do it. And I plead guilty to the charge. It did not do it because, for one thing, it did not want to extend the area of trouble. For another, I shall show what effort Pakistan was trying to make very soon afterward with the Government of India to settle this question amicably, peaceably and in a fair and equitable manner.

What had happened up to that time was that this movement had taken place. In certain areas this movement defeated and dispersed the forces of the Maharaja. These people, as I have said, had taken women and children across the river into Pakistan and left them there. They were prepared to sell their lives dearly for the sake of their freedom, and they started this movement. That was the spearhead of the movement. It is true then that these tribal incursions took place on 22 October.

By 26 October the position was such that the Maharaja left Srinagar. He evacuated his capital and went away to Jammu. From Jammu he wrote a letter, which is in the records of the Security Council [227th meeting], to Lord Mountbatten. Part of the letter was read out yesterday by the representative of India. In this letter he asked for Indian troops and said that inasmuch as he could not obtain them without offering accession, he offered accession. In reply to that letter, Lord Mountbatten did say specifically: "The question of accession should be settled by a reference to the people."

However, India's toops landed in Srinagar on 27 October, as mentioned yesterday by the representative of India. It is of interest that the letter of the Maharaja was written on 26 October from Jammu—the Security Council is now in a position to see where Jammu is situated—and that Indian troops were in Srinagar on 27 October, by an airborne invasion. I believe that is a very significant fact as to what had gone on behind the scenes in the meantime.

Obviously, Pakistan could not accept that letter of the Maharaja and Lord Mountbatten's reply as any kind of an accession at all. Lord Mountbatten himself had said that the question of accession should be settled by a reference to the people. It is not as if it were just a case as visualized even by the Government of India with regard to other States where the majority of the people are on one side, the Ruler belongs to another community, and the Ruler will not accede to the Dominion which is indicated by the majority of the population. Here a freedom movement had started, and over the greater part of the Province of Kashmir and some portions of the Province of Jammu the Maharaja's authority had effectively been ended. His armed forces were dispersed and he had left the capital. Not only had these incidents taken place, but the Maharaja was practically on the verge of becoming a refugee, and in that desperation, he wrote the letter. What effect that letter can possibly have, and whether it is expected by the representative of India that Pakistan should recognize the validity of that letter, is beyond my comprehension.

The whole of the subsequent legal statement of the representative of India is based upon the fact of that letter. I pause here for one moment. I would beg the Security Council to compare the positions with regard to Junagadh and Kashmir. Junagadh first had a standstill agreement with Pakistan. It then acceded to Pakistan. The ruler offered accession, and accession was accepted. A Provisional Government of Junagadh was set up within the territory of India, and eventually Indian forces marched into Junagadh. There is the picture on one side.

In Kashmir this movement took place, and there was the condition of fighting and disturbance which I have already

explained. The Maharaja, obviously for the purpose of obtaining troops to restore his authority in areas where it had been cast off by these people who were seeking to set up an independent government, offered accession. Lord Mountbatten replied: Very good, troops will be sent; the question of the accession of the State shall be determined by the wishes of the people.

Whatever consequences, if any, flow from this letter, far stronger consequences flow from the accession of Junagadh to Pakistan.

Let India apply whatever principle it chooses to both States and justify it with regard to its attitude respecting each. It would then be possible to judge whether India's measures, standards and ideals with respect to each situation are the same or whether India merely adjusts its standards, ideals and declarations with regard to each situation and its aspects which might be beneficial to India itself.

Now what did we do further to stop this type of things from proceeding? On 28 or 29 October the Governor-General of Pakistan made an offer to the Governor-General of India and to the Government of India to co-operate in working out the best way to deal with the situation and to resolve it peacefully, which was the following. Let the two Governors-General be authorized by their respective Governments to deal with the situation. Then let them take steps to stop the fighting and restore law and order, even if that should necessitate military action being taken against the tribesmen who had committed these incursions. That having been done, let everyone who had gone into the State withdraw simultaneously. That meant the Indian armed forces, the tribesmen, the Pakistani volunteers, and anyone who had gone in. That having been done, let the administration of the State be assumed by the two Governors-General. Let them then proceed to organize a free and impartial plebiscite for the people of the State of Jammu and Kashmir to decide whether they wanted to accede to India or to Pakistan.

I should like to know what was there in this offer which was open to objection, and whether it was not a statesmanlike

offer to end the situation in a peaceful, fair, just and equitable manner?

That is the contribution that Pakistan attempted to make towards the solution of this problem and towards stopping what was happening within the State. It was not accepted; it was turned down.

The objection taken was that constitutionally it was embarrassing to the Government of India to invest their Governor-General with such authority. I shall not comment on that, but we had made that offer, and I again repeat that it was the fairest offer that could, in the circumstances, be made. It would give no advantage to either side, and it left the issue of the accession in the hands of the people of the State. Then, later on, the reply was actually received in writing to this offer and is contained in a telegram from the Prime Minister of India to the Prime Minister of Pakistan, dated 8 November. I shall read out paragraphs 10 and 11, in which the following was stated:

"It will thus be seen that our proposals"—that is, India's proposals—"which we have repeatedly stated are: (1) that the Government of Pakistan should publicly undertake to do its utmost to compel the raiders to withdraw from Kashmir; (2) that the Government of India should repeat its declaration that it will withdraw its troops from Kashmir's soil as soon as the raiders have withdrawn and law and order are restored; (3) that the Governments of India and Pakistan should make a joint request to the United Nations to undertake a plebiscite in Kashmir at the earliest possible date."

This is all that we have insisted upon during the last two years. But the efforts of the Security Council, of the United Nations Commission for India and Pakistan, and such efforts as we could make to persuade the Government of India to carry this out, have so far unfortunately failed. I now continue quoting:

"The above conclusions relate only to Kashmir, but it is essential"—says the Prime Minister of India—"in order to restore good relations between the two Dominions that there

should be acceptance of the principle that where the Ruler of a State does not belong to the community to which the majority of his subjects belong, and where the State has not acceded to that Dominion the majority community of which is the same as that of the State, the question whether the State has finally acceded to one or the other Dominion should be ascertained by reference to the will of the people."

These proposals were not exactly what we had offered, but we nevertheless agreed to treat them as a basis for complete negotiations and a settlement of the matter. And we suggested at that stage that the whole dispute between the two Dominions over these matters should be referred to the United Nations. I quote from a Press statement of the Prime Minister of Pakistan on 14 November, in the course of which he said the following:

"The fundamental principle of the Charter of the United Nations is to prevent might prevailing over right. The whole dispute should therefore be brought before the bar of international opinion. We are ready to request the United Nations immediately to appoint its representatives in Jammu and Kashmir State in order to put a stop to the fighting and to the repression of Muslims in the State; to arrange the programme of withdrawal of outside forces; to set up an impartial administration of the State until a plebiscite is held; and to undertake the plebiscite under its direction and control for the purpose of ascertaining the free and unfettered will of the people of the State."

Also, in a telegram addressed by the Prime Minister of Pakistan to the Prime Minister of the United Kingdom, dated 22 November, the Prime Minister of Pakistan said this:

"The above analysis shows that: first, fighting must stop and all outside forces must withdraw; and secondly, which is no less essential, that the Kashmir administration must be taken over by an impartial and independent authority immediately. Not until these conditions are fulfilled is there any hope of

getting a free plebiscite which, in our opinion, need not wait until the spring.

"I hope you now realize the actual position, if you will consider these basic facts. You will, I hope, support our proposal that the United Nations should immediately send out a commission to undertake the tasks outlined in the paragraph above."

That is paragraph 5 I just read. Our position from the very beginning with regard to the solution of this question, while all these occurrences were going on, is indicated by this. The offer that we made through our Governor-General to the Governor-General of India and the Government of India was not acceptable for certain constitutional considerations. There is then the offer we made in reply to Prime Minister Nehru's telegram of 8 November; but let us take that telegram by itself.

Although the two Governments have been agreed that this question shall be decided by the free and unfettered expression of the will of the people, there has all along been a difference between the two Governments as to what would constitute conditions which would guarantee a free expression of the will of the people. There is one factor which I trust the Security Council will note, and it is this: In the case of Junagadh, India insisted that the plebiscite should be undertaken by the Government of India and the State of Junagadh. We have not, in the case of Kashmir, at any time suggested, much less insisted, that the plebiscite should be undertaken by the Government of the State of Jammu and Kashmir and the Government of Pakistan, excluding from it the Government of India. All the logic that there might be behind India's suggestion with regard to Junagadh surely applies to the Kashmir case, too. But we did not consider that fair. We could not, either to ourselves or to anybody else, pretend that under those circumstances a plebiscite would be fair. We therefore were completely willing and have been willing throughout—as a matter of fact, we have insisted—that the plebiscite should be undertaken by an impartial authority under conditions which should make it really free and impartial.

That is the whole crux of the matter and the whole difference between the Government of India and ourselves. We insist that, as minimum conditions of a free and impartial plebiscite, all foreign troops and other fighting elements should be withdrawn from the State—those who have entered from outside; that a non-partisan administration should be set up in the State of Jammu and Kashmir; and that the plebiscite should be organized and conducted by and under the authority of the United Nations. But if anybody says, "Oh, but what you suggest would not enable anybody who wants to vote for accession of Kashmir to India to vote for it; they might be compelled to vote for Pakistan; let that condition be modified," one must ask: What is there in these conditions which would force anybody to vote one way when he wanted to vote the other, and what is it to which anybody could take any reasonable exception?

Then the matter was not brought to the United Nations as we had suggested. We had suggested that we should both join in taking the matter to the United Nations and abide by such arrangements as the Organization might make for a free and impartial plebiscite. India chose to come to the Security Council as a complainant against Pakistan.

Nevertheless, Pakistan welcomed the reference to the United Nations. After all, it was not very material whether both of us made a request jointly to the United Nations or whether one party raised the question in a form in which, in fact, it chose to raise it—a form which we thought unjustified. While we should have preferred the two parties to have taken up the question together, we could, of course, come and explain the situation to the Security Council, and the Council would then be seized of the matter. The position taken up by India and Pakistan is summed up in paragraphs 200 and 201 of the Commission's third report [*S/1430*], and members of the Council are already familiar with it. As I have said, the whole struggle has been in connexion with the demilitarization of the State and the setting up an impartial administration until the plebiscite can be completed. After careful consideration of the whole

matter, all these factors except those that have arisen subsequently, and to which reference was made by the representative of India, such, as tribal incursions, the so-called accession of Kashmir to India, the question of sovereignty, integrity, and so on, were all agitated in detail before the Security Council. The members of the Security Council expressed certain views on the situation and on what measures, in their opinion, would bring about a peaceful solution.

I shall draw attention to only three or four brief quotations. At the 235th meeting of the Security Council on 24 January 1948, Mr. Austin said:

"It seems to me that our advice to the two parties should be, and that is what they are asking for when they come here, that they proceed with the Kashmir matter, without prejudice to the other question, complete the negotiations that are now pending and, with respect to the media and methods of creating those conditions in which a fair plebiscite can be held, arrange an interim government that is recognized as free from the smell of brimstone, as nearly impartial and perfect as two great countries like India and Pakistan can make it, in which the rest of the world will have confidence as being fair."

At the same meeting Mr. de la Tournelle said:

"Personally, I would suggest three conditions:

- "1. The withdrawal of foreign troops from the State of Kashmir.
- "2. The return of the inhabitants, irrespective of their race—Hindu or Moslem—to their places of origin in that State.
- "3. The establishment of a free administration which would not exert pressure on the population and would give absolute guarantees of a free vote."

At the next [236th] meeting of the Council held on 28 January 1948, Mr. Noel-Baker stated:

"In my conception, infinitely the best way to stop the fighting is to assure those who are engaged in it that a fair settlement will be arrived at under which their rights will be assured. In other words, as I remarked to the representative of India in our first talk after his arrival, in my profound conviction, a settlement arrived at quickly in the Security Council is the real way to stop the fighting. The whole thing, from the preliminary measures as to the fighting right up to the conduct of the plebiscite, in the end is all one problem. Only when the combatants know what the future holds for them will they agree to stop."

Finally, at the 237th meeting of the Council, Mr. Tsiang observed as follows:

"It is obvious that the key to the problem lies in the plebiscite. If the principle of a free and impartial plebiscite for deciding the all-important question of the accession of Kashmir to India or Pakistan should be accepted, much of the incentive to violence and the use of force would be removed.

"On the other hand, unless we restore peace in Kashmir such a plebiscite would not be possible."

The Security Council propounded a resolution on 6 February 1948 [S/667]—known as the van Langenhove and McNaughton resolution—which contained the crystallized views of the Security Council. After six members of the Security Council had spoken in support of that resolution [243rd meeting] the Indian delegation intimated that its instructions were that it was to go back to New Delhi for consultation. The representative of India yesterday pointed to two factors, to which I shall come later, as having been responsible for the delaying and obstruction of the plebiscite. He charged the Government of Pakistan with having been responsible for this delay and obstruction. The first delay and obstruction took place on 12 February 1948 [244th meeting]—or whatever the date was—when the Indian delegation withdrew from the deliberations of the Security Council in order to

return for consultations with its Government. I do not blame the Indian delegation for that, but the effect was that the consideration of the case which India had repeatedly insisted was one of great urgency—in fact, one of the expressions used was that the Security Council was not dealing with it with due expedition and that it was fiddling while Kashmir burned—was interrupted when the Indian delegation withdrew on 12 February and did not return again until some date in March.

What was provided by the resolution to which I have just referred? Briefly, it was this. The main provisions were that the question as to whether the State of Jammu and Kashmir should accede to Pakistan or to India should be decided by the democratic method of a plebiscite to be held, as recognized by the parties, under the auspices of the United Nations to ensure complete impartiality; secondly, that fighting should stop; thirdly, that all irregular forces and armed individuals who had entered Jammu and Kashmir from outside should withdraw; and, fourthly, that the Indian and Pakistan Armies should co-operate.

I draw the particular attention of the Council to this, and I shall come to it again later when I have to deal with the first of the effects of the obstruction of which the representative of India spoke yesterday, and for which he said Pakistan was responsible. It was provided that the Indian and Pakistan Armies should co-operate to establish order and security until the question of the accession had been determined, and that the regular force should be withdrawn as soon as the re-establishment of law and order permitted. It was further provided that citizens of the State of Jammu and Kashmir who had left on account of the disturbances there should be invited and should be free to return in order to participate in the plebiscite. It was also provided that an interim administration should be set up which should command the confidence and respect of the people of the State, and that the plebiscite must be organized, held and supervised under the authority of the Security Council.

As I have said, the first obstruction took place when the delegation of India refused to go on with the discussion in the

Security Council. The second obstruction took place when the delegation of India declined to accept these recommendations of the Security Council. When the delegation of India returned the discussions went on and the Security Council then adopted its resolution of 21 April 1948 [S/726]. In respect of this resolution also I would wish to draw attention to one paragraph, paragraph 5. At a certain stage, after fighting has been stopped and so on, the Security Council says:

"If these local forces should be found to be inadequate, the Commission, subject to the agreement of both the Government of India and the Government of Pakistan, should arrange for the use of such forces of either Dominion as it deems effective for the purpose of pacification."

Both these resolutions, the one that was not persisted in and the one that was actually adopted, visualized under certain circumstances the use of Pakistan forces for the purposes of pacification. It is a point to which I shall revert later. However, since I was dealing with resolutions, I have drawn attention to it at this stage.

The Government of India rejected the resolution of 21 April 1948. The Government of Pakistan, in my letter of 30 April 1948 addressed to the President of the Security Council [S/735], pointed out that it noted the explanations of the various clauses that had been offered during the discussion of the resolution, but that unfortunately those explanations were not made part of the resolution, and that for that reason the Government of Pakistan regarded the resolution as inadequate for the purpose of securing a fair and impartial plebiscite.

However, whatever the attitude of the parties, the resolution was adopted by the Security Council, and in pursuance of that resolution the United Nations Commission for India and Pakistan was directed to go to the sub-continent and place its good offices at the disposal of the two Governments in order to implement the resolution of the Security Council.

We now approach that point which the representative of India emphasized so much yesterday afternoon: the entry of

Pakistan forces into certain areas of the State. The representative of India said that each side had been asked not to aggravate the situation in any way, but that Pakistan had done so by sending in its forces, and that was something which changed the whole situation and occasioned the delay in, and the obstruction to, the holding of the plebiscite.

While the Security Council was debating the Kashmir case, India, in spite of the appeal to do nothing to aggravate the situation, was building up its forces in the State for an all-out offensive in Kashmir. India's attitude throughout the discussions here with Mr. van Langenhove and General McNaughton was that, once a Commission was agreed upon, all that was necessary was to see whether the tribesmen had made incursions into the State or not and whether Pakistan volunteers were fighting there or not, and that the rest would be done by India. I do not want to give too many quotations from the proceedings of the Security Council, but I am sure that even the Security Council proceedings would reflect that certain members of the Security Council were anxious to avoid the situation which India was no doubt anxious to bring about; that is to say, to achieve a military decision in Kashmir and to occupy the whole of Kashmir with its troops. And what would happen once they had occupied the areas in which the *Azad* freedom movement had started and been carried on, can easily be imagined.

It was pretended at one time that the whole population of the State was opposed to Pakistan and that Pakistan was an aggressor and was regarded as a tyrant. But there is the incontrovertible fact today that between 600,000 and 700,000 Muslims of Kashmir, who had their homes on that side of the State which is in the military occupation of India today, are refugees in Pakistan. That fact is eloquent in itself. What does it show? What does it prove? Who are the liberators? Who are the aggressors? Who are the tyrants? After all, it may be possible to present arguments in any juxtaposition. But facts, which are undeniable and which speak for themselves, are more eloquent than any argument at all. If the role of the Indian military forces in Kashmir has been that of restorers of peace

and of law and order and protectors of the population, how is it that as large a number as 600,000 to 700,000 Muslim inhabitants of those areas of Kashmir which are in the military occupation of India are today refugees in Pakistan? That number, of course, would have been augmented and multiplied many times if the military forces of India had been able to occupy the whole of the rest of the State. That goes without saying; nobody can deny it.

Then India launched its offensive in Kashmir early in April 1948, while the matter was being debated in the Security Council. This led to a very large exodus of Kashmiri Muslim refugees to Pakistan and threatened the very security of Pakistan itself.

If the members of the Security Council will be good enough to turn once again to the map which has been supplied to them, they will see that a dotted line starts slightly to the west of Jammu. That dotted line represents the cease-fire line. It runs parallel for many miles to the Pakistan border and then turns northward. Members of the Council can see how close to the Pakistan border the military forces of India had arrived.

More than that, the irrigation system of West Pakistan, based on the River Jhelum, takes off from a point inside the State boundary of Jammu and Kashmir, just where the river parts company with the State's border beyond the railway line and the road. But the actual headworks are inside the State.

There is an arrangement for a 99-year lease, and so on, but that is something with which I need not trouble the Council. At any rate, the headworks, as I have said, are inside the State. It is perfectly obvious what would happen to the headworks once the Indian military forces had pushed their advance to the borders of the State. With respect to other headworks which have been left on India's side by the partition, India has claimed that it can stop our water; and it did stop our water on 1 April 1948, and restored it only on our agreement to make a deposit for the price of water supplied. The same thing would undoubtedly have happened with the Mangla headworks.

These were the factors that were created toward the end of April 1948. On 15 March 1948, the Indian Defence Minister

had already announced in the Indian Constituent Assembly that the Indian Army would clear out all resistance from Kashmir's soil in the next two or three months. What did that indicate? It indicated that India was going to mount a fresh offensive in Kashmir. I am not for the moment discussing whether India was justified or not; I am merely giving facts to the Council so that it may appreciate the situation.

The Times of London of 13 April 1948 had a communication from its special correspondent at Srinagar, in the course of which this was stated:

"The Indian Army has worked extremely hard during the winter months and its position has been much improved. In spite of snow-storms and rain and the resulting drifts, mud and landslips, it has doggedly moved up supplies and reinforcements, improved roads and airfields and intensified the training of its troops. Logistically, it has won a notable victory, but even now in April, traditionally the month for a spring offensive, this necessary phase has not been completed. The road between Jammu and Srinagar, which winds over the Banihal Pass, is still snow-covered and convoys are often snowbound. To improve communications a daily air service has been organized although weather conditions will make flying unsafe for at least two or three weeks. But the force has been considerably strengthened and it should soon be ready for a limited offensive. Already some units have advanced from Rajauri in Jammu and from Uri and some small successes have been reported. Fighting is bloody. Few prisoners are taken and acts of barbarism have been committed by both sides. Many Pathans have been decapitated by Sikh troops."

That was some weeks before Pakistan moved its forces in, but this leaves no doubt whatever that India was mounting an offensive to clear the State of all military resistance. With what was Pakistan at that time faced? So far as its own security was concerned, it was faced with a deadly danger. Once the whole State was militarily occupied, Pakistan's flank was completely

broken. It was faced with the certainty that at that date all its irrigation system based on the River Jhelum might be cut off. Remember, this was at the end of April 1948, and on 1 April 1948 India had stopped the water from the Sutlej and Ravi Canals into Pakistan, and that stoppage was then in progress and was continuing in the month of April.

Obviously, therefore, once they got possession of the Jhelum headworks inside the State, the same would follow. The problem of refugees was already becoming unmanageable so far as Pakistan was concerned, and again it meant that once their troops advanced into the areas held by the *Azad* Kashmir people, Pakistan would have a large influx of refugees too. At this stage the Government of Pakistan received an appraisal of the military situation from its Commander-in-Chief, dated 20 April 1948, from which I quote:

"General military situation: (a) The build-up of the Indian Army for an all-out offensive in Kashmir started towards the end of February 1948 at a very rapid rate. Eight brigade groups, complete with supporting arms, artillery, armour, engineers etc. backed by a considerable air force of fighters, bombers and transport aircraft are at present deployed in Jammu and Kashmir and the process of building-up continues but appears to be almost complete now. On 15 March 1948 the Indian Defence Minister announced in the Indian Constituent Assembly that the Indian Army will clear out the so-called raiders from Kashmir within the next two or three months. So far the main concentrations are in the south, i.e., in the area Jammu-Naoshera at least one additional brigade group is already reported to have moved into the Valley. There are also indications of two separate commands being organized, one in the Valley and one in the Jammu area. The offensive on a limited scale appears to have started already and Rajauri was captured by Indian troops on 12 April. This was followed by a reign of terror which included the burning of villages, the massacre of the civilian population and other atrocities. Four thousand men are reported to have been victimized in this manner and great panic and confusion prevailed in the area.

"(b) Deduction: It is obvious that a general offensive is about to start very soon now. The present dispositions suggest that it will first start in the south with Bhimbar and Mirpur as the most likely objectives with a view to coming right up to the Pakistan border."

This is a long appraisal and I shall not quote the body of it. I shall go on to the summary of deductions towards the end, which says:

"Summary of Deductions: (a) That a general offensive is being planned by the Indian Army in the north and the south is a certainty. Their objectives are likely to be as follows: south: (i) Bhimbar-Mirpur, (ii) Poonch; north: Muzaffarabad-Kohala.

"(b) Judging from what was happened in Rajauri, an advance by the Indian Army in any of the above areas is almost certain to create a big refugee problem for Pakistan, which is already saturated. Refugees will be an extremely serious strain on the civil administration and a heavy drain on the country's economic and financial resources. From this point of view alone it is imperative that the Indian Army is prevented from gaining any of the above objectives.

"(c) Occupation of Bhimbar and Mirpur will give India the strategic advantage of having crossed two major obstacles, *i.e.*, the Rivers Ravi and Chenab, and of coming right up to the Pakistan border, thereby sitting on our doorsteps, threatening the Jhelum Bridge which is so vital for us, and getting further opportunities for intrigue etc. It would also give them the control in the Mangla headworks, thus placing the irrigation of Jhelum and other districts at their mercy.

"(d) Occupation of Poonch by the Indian Army is certain to have a most serious effect on the morale of the many Poonchis in the Pakistan Army, and this in turn will adversely affect the morale of other troops. Desertions will undoubtedly increase and discipline will receive a big setback.

"(e) The loss of Muzaffarabad or Kohala will, broadly speaking, have the most far-reaching effect on the security of Pakistan. It would enable the Indian Army to secure the rear gateway to Pakistan through which it can march in at any time it wishes to do so, without any major obstacle such as the River Jhelum to stand in its way. It will encourage subversive elements such as Khan Abdul Gaffar Khan and his party, Ipi, and Afghanistan; and it will certainly cause extreme panic and alarm in some of the adjoining districts of the North West Frontier Province and Punjab resulting in the mass exodus of population which will create an insoluble refugee problem within Pakistan itself.

"(f) An easy victory of the Indian Army in any of the above-mentioned sectors, particularly in the Muzaffarabad area, is almost certain to arouse the anger of the tribesmen against Pakistan for its failure to render them more direct assistance, and might well cause them to turn against Pakistan.

"*Recommendations:* 7. If Pakistan is not to face another serious refugee problem with about 2,750,000 people uprooted from their homes; if India is not to be allowed to sit on the doorsteps of Pakistan to the fear and on the flank at liberty to enter at its will and pleasure; if civilian and military morale is not to be affected to a dangerous extent; and if subversive political forces are not to be encouraged and let loose within Pakistan itself, it is imperative that the Indian Army is not allowed to advance beyond the general line Uri-Poonch-Naoshera."

I put it to the representatives on the Security Council that if they, in their respective shares, were charged with the responsibility of the defence and the security of their own countries, and they received this report from their Commander-in-Chief—and in this case it was not a Pakistan national who had made the report; the Commander-in-Chief was and is General Sir Douglas E. Gracey, a distinguished British officer—if they had received this report which everything else reinforced and supported: the reports of foreign observers to their newspapers, the speeches of Indian statesmen and their Defence Minister

both in public and in the Constituent Assembly, and if they were convinced that this was the situation, what is the very least that they would have done in the circumstances? Pakistan did that very least and no more. It sent in its troops to hold that line.

Yesterday, the representative of India said that that was an act of aggression. Did the representative of India expect that the Indian Army should march victoriously forward, crush this freedom movement of which I have now given some slight, inadequate picture to the Security Council, and occupy the whole of the State militarily? India had rejected the Security Council's resolution of 6 February [S/667]; it had rejected the Security Council's resolution of 21 April [S/726]; it was not willing to hold a plebiscite under any conditions that would approximate to conditions which would ensure a free and impartial plebiscite. India's avowed object was to occupy the whole State militarily and that action, in addition to what it would have done to Kashmir and the Kashmiris, would have put the whole situation of Pakistan in jeopardy and would have put out of action one of the principal irrigation projects. I say again to the Security Council, what is the minimum that any one responsible for the defence of Pakistan would have done? That is the minimum that we did.

The question that was asked us was: Why did you not notify the Security Council?

Did the Government of India, in mounting its offensive, notify the Security Council, though that was a serious change in the situation? It was an aggravation of the situation. It cannot be pretended otherwise. India not only mounted its offensive, it subsequently continued to move on to other areas, occupying certain portions and rapidly advancing towards the Pakistan border. Did India notify the Security Council? But we did. Our troops moved in about 6 May, or some such date. It is obvious, of course, that military action of that kind could not be broadcast, and any communication to the Security Council on that subject would have been broadcasting to the world, and certainly to India. Again, as I have said, anybody responsible for the defence and security of his country could not

have taken that step. But by that time the Council had set up a Commission to which it had entrusted the carrying out of the duties which were set out in the resolution of 21 April. That Commission was momentarily expected on the sub-continent of India. Unfortunately—for good reasons perhaps, but unfortunately from this point of view—its arrival was delayed until 7 July.

On the morning of 8 July the Commission did me the honour to pay me an informal visit so that we should get to know each other. I detained the members for two hours and, with the help of maps, I gave them the most detailed and complete information on military situations that existed then, including the presence, the number and the disposition of the Pakistan armies in the section. We did communicate, but we communicated in a manner which would not have destroyed the very objective of that action itself. It would have been the height of folly if we intended and decided to take that action to stop the further advance of the Indian Army, to have broadcast the matter to the world and to India in particular, but we did communicate with the Commission almost as soon as it set foot on the sub-continent of India.

But what was the aggression against? Against whom was the aggression? Did our people go into areas? Did we make an advance? Did our armies go into areas where they could commit persecution and deprivations of the people? They went, so far as Kashmir was concerned, in aid of the freedom of the people, in order to enable them to hold what territory was left to them against the Indian advance. And so far as we were concerned, that was the main object: to avoid the imminent danger that threatened the security of Pakistan and the economy of Pakistan. But we did take the earliest feasible step to communicate the fact to the Commission.

India has gone on saying all through—the Prime Minister of India and other statesmen—that, before the Security Council, Pakistan denied this, but that before the Commission, it was forced to accept the position, forced to admit it. But what we denied before the Security Council and what we admitted before the Commission had not happened until 6 May, or some such

date, both according to the Government of India and according to us: the first week in May. I could not submit something in January which was neither contemplated nor necessitated until some time in May. It was necessitated by India's action, and India's action became imminent, although the preparation had started in February, in May. How could I, in January, tell the Security Council something that was not thought of till April and did not occur until May? As soon as the Commission arrived on the sub-continent the information was given.

The representative of India used a quaint phrase yesterday—I appreciated the phrase itself. He said: Thus India's...complaint. . . was now proved to be true, or at least to have become true. . .” It has become true by some action in May of 1948—the complaint that India made on 1 January 1948 has become true. But that is not so much the point. The point is that all through, and this is the first public opportunity of dealing with it, Indian statesmen, led by the Prime Minister, have gone on the basis of that factor, saying that Pakistan's case before the Council was a tissue of lies. Pakistan's troops are in the Kashmir area. Pakistan's troops were not in the Kashmir area until the first week in May and we were under no international obligation not to intervene. India had committed an act of aggression. India was in the course of occupying those areas. I plead guilty to the fact that when these troubles started we should have sent our troops in the beginning in order to stop the persecution of the Muslims by the Maharaja and his troops and to restore the law and order which the tribesmen had disturbed. To that I plead guilty. That was a default which we regret, but that is not to say we were not entitled to do so. As a matter of fact we were under obligation to do so as Kashmir had a standstill agreement with us at that date. We were not guilty of any breach by sending troops on 6 May, and that is not what delayed the plebiscite. How could it?

With regard to pacification itself after fighting ceases, and now fighting has ceased since 1 January, the Security Council contemplated that the forces of both Dominions might be utilized by the Commission or by the Plebiscite Administrator. How does that delay the holding of the plebiscite? And if the

forces of any side had to be used, it is not obvious that, at least in those areas in the section of the *Azad* Kashmir people, Indian troops could not be used for purposes of pacification? It would have to be *Azad* or Pakistan troops. How does that interfere with the question or the principle of the plebiscite? When the Commission arrived it started negotiations with both sides. I must pay tribute to the Commission in respect of its activity on the sub-continent. Its members undertook a great deal of physical discomfort and put in a lot of work in an attempt to bring the two Governments together with regard to some agreement which might result in the holding of a fair and impartial plebiscite.

After several journeys and discussions backwards and forwards, they were able to put forward their resolution of 13 August 1948 [*S/1100, paragraph 75*]. The resolution of 13 August 1948 could not be accepted by the Pakistan Government for this main reason: that, though it dealt with the cease-fire and, also, with the truce agreement and arrangements, all that it said with regard to the plebiscite was that the future of the State of Jammu and Kashmir—and I am not quoting this verbatim—would be settled in accordance with the wishes of the people. Pakistan insisted, having had experience of the attitude adopted by India from time to time, that, before it would agree to the cease-fire and the truce, it must know that fair, just and equitable conditions had been agreed to by India with regard to the holding of the fair and impartial plebiscite.

Now, again, the Security Council is aware, since the discussion took place here when the case was previously before the Council, that the whole is one process. I have read out an extract from the speech of Mr. Philip Noel-Baker. The whole is one process, and it was repeatedly stated by everybody that fighting could not stop; that nobody could persuade the Pakistan Government or anybody else to stop the fighting unless the people had the assurance that they could have that, for which they were fighting, through the plebiscite; that, unless they were assured that that would happen, a fair and impartial plebiscite would be held, and unless the conditions satisfied

them, at least to a major degree, that the plebiscite would be fair and impartial, no one could expect them to stop.

Again, the point today is not whether that stand was justified or not. But that was the position. Eventually, the Commission did take up the question of elaborating part III of the resolution of 13 August 1948, and they eventually put forward their second resolution of 5 January 1949 [S/1196, *paragraph 15*], which was, of course, supplementary to the 13 August 1948 resolution, inasmuch as it expanded and filled in the details of part III of that resolution.

Yesterday, the representative of India sought to make a virtue, at least on the side of India, of the fact that India accepted these two combined resolutions, or this composite resolution, on 23 December [S/1196, *annex 4*], whereas, even at that stage, Pakistan did not accept until 25 December [S/1196, *annex 5*]. He seemed to think that there was some default on the part of Pakistan, or at any rate, that there was some merit on the part of India in having accepted on 23 December. Mr. Lozano, then, I think, the Chairman or Vice-Chairman of the Commission, who was entrusted to the Commission with the task of proceeding to the sub-continent to explain the resolution to the two Governments, went first to Delhi, had conversations with the Government of India, and, as it now appears, obtained the acceptance of the Government of India of this resolution on 23 December. It was only thereafter that he came to Karachi and held conversations with the representatives of the Pakistan Government, on 24 and 25 December. The acceptance of the Pakistan Government was communicated to him on 25 December. Where was the default on the part of Pakistan, if there is any question of default? The juxtaposition of the two dates which was insisted upon yesterday is inexplicable to me. We were not even approached until 24 December. How could we have accepted on 23 December? Mr. Lozano went first to Delhi and then to Karachi. Had he gone first to Karachi and then to Delhi, we should probably have accepted first.

Nothing turns on the two dates. What is essential is that, up to those two dates, 23 and 25 December, the resolutions had not been accepted. The first had not been accepted by us;

the acceptance of the second by India was not known until 23 December. And, obviously, if we had not accepted a resolution, how could that resolution become binding upon us before acceptance? I shall, however, also come back later to that aspect of the matter which the representative of India raised yesterday.

What did the resolutions, taken together, provide? First, that there should be a cease-fire and that, following the cease-fire, a cease-fire line should be laid down on the ground. I need not revert to this, because the cease-fire became effective on 1 January 1949, and, since then, though it took a much longer time than it need have, the cease-fire line has also been determined. That is out of the way, and no further reference to it need be made now. The next was the truce stage. These two phases were dealt with in the resolution of 13 August 1948. On the truce stage, the first and main question was the reduction of the armed forces of both sides in the areas concerned. At that date, on the Pakistan side there were the tribesmen, there were the nationals of Pakistan who had entered the State for the purpose of fighting, there were the regular troops of the Pakistan Army, and there were the *Azad* Kashmir forces. On the Indian side, the forces engaged were the regular troops of the Indian Army, Indian nationals who had entered the State for the purpose of fighting, the State military forces, and the Jammu and Kashmir State Militia. Now, that was the state of the military forces on each side, apart from their numbers and their equipment and the weapons available. The agreed arrangements for the disposal of these forces were as follows:

First, Pakistan was to use its best endeavours to secure the withdrawal of tribesmen and Pakistan nationals who had entered the State for the purpose of fighting. This was to happen in the truce stage, but this was the first thing that was to happen. The truce stage had not yet arrived because the truce agreement had not been settled and a deadlock had been reached. Nevertheless, there was no further object either in fighting or in continuing in the State for that purpose, although the obligation of securing the withdrawal of tribesmen and Pakistan nationals arose only after the

signing of the truce agreement, inasmuch as the Pakistan Government was not in a position to assure the people concerned that a free and impartial plebiscite had been agreed upon, to be held under conditions, though not guaranteeing it one hundred per cent, still offering a fair chance of its being free and impartial. Once the cease-fire was arranged, Pakistan succeeded in getting the area evacuated of the tribesmen and such Pakistan nationals as had entered the State for the purpose of fighting. This was an obligation which, though it was to be imposed and would have become applicable to Pakistan only in the truce stage, had already been discharged by Pakistan.

Next, what was envisaged was the withdrawal of the regular forces of India and Pakistan, so arranged that Pakistan would take the first step, but after Pakistan troops had begun to withdraw, India undertook to begin the withdrawal of its forces in stages to be agreed with the Commission. That was the next stage. It was to begin with the withdrawal of the Pakistan forces, and then later on the withdrawal would be synchronized and the entire Pakistan forces on one side were to withdraw, and the bulk of the Indian Army on the other side was to withdraw. The Commission assured the Pakistan Government that the withdrawal of the Pakistan Army and the withdrawal of the bulk of the Indian Army would be synchronized with the two High Commands.

I wish to draw the attention of the Council to paragraph 10 of the appendix to the Commission's letter dated 27 August 1948, annex 27 to the Commission's first report [S/1100]. The letter was addressed to me. Paragraph 10 reads as follows: "In accordance with part II, section B, paragraph 1 of the resolution"—that is the resolution of 13 August—"the Indian Government, when apprised that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, agrees to begin to withdraw the bulk of its forces from the State in stages to be agreed upon with the Commission. Synchronization of the withdrawal of the armed forces of the two Governments will be arranged between the respective High Commands and the Commission."

Under paragraph 4 of the resolution of 5 January 1949 [S/1196, paragraph 15] the Plebiscite Administrator was authorized to determine the final disposal, on the one hand, of the Indian forces remaining in the State after the withdrawal of the bulk of the Indian forces, the Maharaja's State forces and the State Militia and, on the other, the final disposal of the *Azad* Kashmir forces, having due regard to the security of the State and the freedom of the plebiscite.

I think I had better draw the attention of the Council to the actual paragraph in the resolution. The first withdrawals were to take place during the truce stage, then after the truce stage and the plebiscite stage, these final disposals were to take place. I shall draw the attention of the Council to the particular paragraph so that members will be able to appreciate what was then intended. I emphasize this because yesterday the representative of India stated that the Commission's proposal did not visualize any reduction in the State forces or in the State Militia. I was rather surprised. Perhaps it was due to an oversight, but this is the paragraph dealing with the whole of this question. It is contained in sub-paragraph 4 (a). It reads as follows:

"After implementation of parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine in consultation with the Government of India the final disposal of Indian and State armed forces, such a disposal to be with due regard to the security of the State and the freedom of the plebiscite."

That was with regard to the Indian-occupied portion. Sub-paragraph 4 (b) deals with the *Azad* Kashmir side:

"(b) As regards the territory referred to in section A, paragraph 2 of part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities."

That was the scheme that was established by these two resolutions. There is nothing imperfect there; there is no loophole. The whole thing, the whole demilitarization, has been taken care of.

There were two stages during the truce. There was the final disposal during the plebiscite stage. During the truce the tribesmen were to withdraw; Pakistan nationals who were fighting were to withdraw. They have already withdrawn; that is over. Then the Pakistan Army was to begin its withdrawal. When this withdrawal had begun, the Indian Army was to begin the withdrawal of the bulk of its forces, this bulk to be determined with the Commission, in certain stages, and so on. That was to happen during the truce stage. Then, during the plebiscite stage, there was the final disposal of the remaining Indian force and the State armed forces of whatever description, on the Indian-occupied side of Kashmir, and of the *Azad* Kashmir forces, on the *Azad* side.

There is no ambiguity; there is no loophole; there is no lacuna. The scheme with regard to demilitarization is complete, and it was accepted both by the Government of India and by the Government of Pakistan.

A further feature of this resolution of 5 January 1949 was that it made provision, after the demilitarization of the State, for the carrying through of the arrangements for the holding of a plebiscite. For that purpose, the Commission's resolution of 5 January provided for the appointment of a plebiscite administrator by the Secretary-General of the United Nations, which plebiscite administrator was to be a man of high international standing commanding general confidence, and he was to have all the powers which he considered necessary to hold a free and impartial plebiscite.

The representative of India made reference to the phraseology of that paragraph in one connexion. I will come to this later on.

The main conditions under which the plebiscite would be held were clearly laid down. From this it will be perceived that although the resolution was accepted by the Pakistan Government, the Pakistan Government in accepting this composite

resolution, had had to give up one of the main guarantees of a free and impartial plebiscite in its anxiety to bring about a settlement of this problem in a peaceful manner, and that was that both the draft resolution of 6 February [S/667] and the Security Council resolution of 21 April [S/726] had provided for the setting up of an impartial administration in Kashmir, or a coalition of the two administrations which would neutralize any interference with the population in the choice which they were to make in the plebiscite. This resolution got away from that.

I shall now make one comment on that aspect here, although I shall have to dwell a little more on it later. The representative of India said that the integrity of a State must be maintained. There should not be two authorities. There is no escape from the position that one alternative was to have one authority for the whole of the State, and if there is one authority for the whole of the State, that authority must be acceptable to the people of the State. That is what the Security Council tried to bring about—an impartial administration “as free from the smell of brimstone”, as Mr. Austin put it, as any two Governments can make it, as impartial and as perfect as possible. Or, as the resolution said, there must be a coalition Government in which both States would be represented. Nominees of both the National Conference and the Muslim Conference would sit in such a Government.

The Government of India, however, would not have that. What is to be done if it will not have an impartial administration? Does it expect either the Pakistan Government to agree, or the Security Council to suggest, that the Government responsible for this Beast of “Belsen poster” should be accepted by Pakistan and by the *Azad* Kashmir people as the authority which should administer the whole of this State, as one unit, for the purpose of holding a free and impartial plebiscite? If that is expected it cannot be achieved. Therefore, either India must agree to an impartial administration for the whole of the State—we have, never objected to this, but are willing and quite certain that we could persuade the *Azad* Kashmir people to agree—or, if it will not accept that, there is no escape from

the position that the Abdullah administration must continue to exercise authority on its side of the cease-fire line, and that the present local authorities, as they have been described out of deference to India's susceptibilities with regard to the expression "*Azad Kashmir Government*", must continue to exercise authority on the other side of the cease-fire line. How else can the integrity of the State be maintained? That was clearly recognized by the Government of India when it accepted these resolutions, as further consideration of the clarifications given by the Commission will show.

The Government of India succeeded in persuading the Commission to give up any attempt to set up one impartial administration or a coalition to administer the whole of the State together. It was, in that way, able to destroy one of the chief guarantees of a free and impartial plebiscite. The Security Council had sought to build those conditions on two main pillars: a free and impartial plebiscite and demilitarization of the State. Then the Government of India made that difficult. Of course, it can be said on the surface, "But this situation is balanced, with Abdullah's administration on the one side and the *Azad Kashmir* administration and the local people on the other." But it is not balanced. It is not balanced for the reason that almost two-thirds of the population is under the control of Abdullah's Government, with only one-third on the other side. The area differs, but the area on the other side comprises high mountainous valleys, very sparsely occupied, with only a small sector thickly populated. There are two-thirds of the population on one side and one-third on the other. There is no balance. Nevertheless, in order to bring about a peaceful settlement, we accepted these conditions. The only guarantee now left is that the Plebiscite Administrator shall have and exercise such powers as he considers necessary for guaranteeing a free and impartial plebiscite. We are placing our trust in that so far as the administration side is concerned, and so far as interference with the freedom and impartiality of the plebiscite is concerned. But it is absolutely essential that there should be complete demilitarization before the people can be expected to record their votes freely in this matter,

which has aroused passions both in Kashmir and outside, and which has become a tug-of-war between the different parties in Kashmir and between India and Pakistan themselves. And India's attempt throughout has been to get rid of the demilitarization provisions also. All sorts of excuses are put forward so that the demilitarization should not take place—and, if it cannot take place, then, of course, the plebiscite cannot take place.

I have already dealt with one of the factors which the representative of India said have obstructed the plebiscite: the presence of Pakistan troops. Now, one word more with regard to the actual attempt made by the Commission to secure demilitarization. When the Commission returned to the sub-continent early in 1949, after the resolutions had been accepted and the actual cease-fire had taken place, it started consultations with both Governments with regard to the programme of withdrawal, because that was the next subject to be dealt with. Our High Command discussed with the Commission our suggestions with regard to withdrawal of troops and demilitarization, and on 9 March, at a conference held in New Delhi, our representative put forward to the Commission our proposals with regard to the putting into effect of that part of the resolution which sought to secure the withdrawal of the Pakistan Army and the bulk of the Indian Army. We were given to understand that, if we were to lay on the table our plan for the withdrawal of troops and the securing of demilitarization, the Government of India would do the same. In that connexion, I should like to draw attention to paragraph 168 of the Commission's third interim report [S/1430]:

"The joint meetings began in New Delhi on 9 March. The first meeting was devoted largely to the consideration of the cease-fire line. The Pakistan delegation, understanding that the Indian delegation would respond in like manner in a subsequent meeting, presented a comprehensive scheme (annex 10) for the implementation of part II of the 13 August resolution."

The Government of India subsequently put off the

presentation of its scheme. When it did communicate its scheme to the Commission, it insisted that its proposal for the withdrawal of the bulk of the Indian Army should not be disclosed to Pakistan until the truce agreement had been signed. That appears in paragraph 232 of the Commission's third interim report.

How were we to accept any synchronization or be satisfied with any proposed synchronization unless, first, we were satisfied that the scheme provided for the withdrawal of the bulk of the Indian forces, and, secondly, that the withdrawal was to be synchronized even though it was to be begun by the Pakistan Army first? But the Government of India, in communicating its proposals to the Commission, laid a ban upon the Commission that the Commission was not to communicate the proposals of the Government of India to the Government of Pakistan, although our proposals had already been laid on the table. To this date, those proposals of the Indian Government have not been communicated to us and we do not know what they are.

Then the Commission communicated to the Government of India its own plan for the withdrawal of the bulk of the Indian forces from Kashmir. The Government of India objected to the Commission's communicating to Pakistan the Commission's own plan for the withdrawal of the bulk of the Indian Army, and the Commission has submitted to that ban also. Accordingly, we do not know what the Commission proposed to the Government of India both with regard to what would constitute the bulk of the forces and with regard to what should be the stages of the withdrawal. These proposals—the plan of the Commission itself—have not been communicated to the Security Council either, although our full plan of withdrawal is naturally available to the Security Council.

But though the Indian plan of withdrawal has not been disclosed to us, the Commission's report makes it clear that this plan does not fulfil India's undertaking under the resolution. In this connexion I would draw the attention of the Security Council to paragraph 245 of the Commission's third report:

"As has been seen from the discussion of the *Azad* problem

and from the foregoing discussion of withdrawals, India is not prepared to withdraw such part of its forces in Kashmir as might be characterized as 'the bulk' whether measured quantitatively or qualitatively, unless agreement with Pakistan on the large-scale disbandment and disarming of the *Azad* forces is reached."

It appears from the Commission's report that, although the Indian forces in the State are more than double the strength of the Pakistan forces, the Government of India, against the withdrawal of twenty-eight Pakistan battalions, is not prepared to withdraw more than twelve Indian battalions. I suppose it describes twelve battalions as the bulk of its forces. Whether it is twelve or whether it is otherwise, I make one offer to India, and it is this: Let them retain in Kashmir what they have described to the Commission as the bulk of their forces and withdraw the remainder. Let the bulk remain at this stage, because, after all, the bulk means the greater part or the more effective part of a force. India has offered to withdraw the bulk and retain the balance; let it withdraw the balance and leave the bulk there for the moment, to be dealt with in the final disposal. Obviously, though India goes on saying that it is prepared to put into effect the resolution, and it may have said that it is prepared to withdraw the bulk—I do not know whether it has, because its proposal is not available to us, and it has defined "the bulk" in its own way—obviously it wants to keep the bulk in Kashmir. This is the main reason for the deadlock, the main reason why progress cannot be made towards the organization and holding of a plebiscite. I shall now proceed to the other question of the disposal of the *Azad* Kashmir forces.

122. Text of the Speech made by Sir Mohammad Zafrulla Khan (Pakistan) in the Security Council Meeting No. 465 held on 9 February 1950

I regret that my submission to the Council has become so lengthy; it might even begin to appear to be wearisome. But I have no doubt it will be realized that the problem before the

Council is of great magnitude and of vital importance—not only to the parties, but, as I said in my opening remarks [463rd meeting], to the maintenance of international peace—and has an extensive background and many ramifications. I do wish to assure the Council that, though I am conscious of making large claims upon its valuable time, it is necessary that, before the Council proceeds to determine what is the course that should be adopted at this stage in order to resolve this problem, it should be in possession of every aspect of it.

Before I resume my submission to the Council I wish to say that yesterday afternoon [464th meeting] I was very naturally disturbed and somewhat distressed at hearing Sir Benegal N. Rau say that I had attributed to him, in the course of the first part of my submission to the Council at that meeting, certain things that he had not said.

The Council will recall what I said at the conclusion of my submission yesterday afternoon, but apart from that, I have looked into the matter myself and have taken pains to study afresh what Sir Benegal N. Rau said in that connexion and what Mr. Setalvad had said earlier to which I also had made reference. I desire, with the permission of the President, in the course of the next three or four minutes to make a submission in that respect.

Sir Benegal N. Rau had said [463rd meeting] "Another misconception which dies hard is that the whole trouble in Kashmir was the result of the Maharaja's accession to India. It cannot be repeated too often that the very reverse was the case. Invaders from outside Kashmir began to pour into the Valley of Kashmir on 22 October 1947. This is a historical fact which can be easily proved from the records, and which no one, to my knowledge, has controverted. The Maharaja's letter containing the Instrument of Accession was written on 26 October 1947...."

Sir Benegal N. Rau then quoted certain passages of the Maharaja's letter which made reference to this tribal incursion. And even that letter went on to say the following—the picture that was then sought to be presented to Lord Mountbatten was that the whole trouble started with the tribal incursion—in a section which was not contained in the quotation made by Sir

Benegal N. Rau, and I quote just one sentence: "The people of my State, both the Muslims and non-Muslims, generally have taken no part at all". That was written on 26 October.

In the same connexion, when Mr. Setalvad was addressing the Security Council on behalf of India on 23 January 1948 [234th meeting] he stated the following:

"Thus came the invasion of Kashmir on 22 October 1947. It commenced by an attack at a place called Muzaffarabad in Kashmir. What is most important to remember is the fact that, until that raid commenced on 22 October 1947—that is, the raid by the tribesmen—there had not been any killing by the Dogras. A point which has been repeatedly mentioned to the members is that Muslims were killed by the Dogras and it was because of the killing of the Muslims that the tribesmen, their brethren, returned from the frontier. That is a totally untrue picture."

Although Sir Benegal N. Rau did not actually use the words used by Mr. Setalvad, he was referring to the same thing, that is, that it was a totally untrue picture of the actual events to say that there had been any trouble inside the State worth the name, let us say, which could have incited the tribesmen or Pakistan nationals to go into the State to help their co-religionists. It is true that Sir Benegal N. Rau did not use the expression "nothing had happened" which I repeated on two or three occasions yesterday afternoon. But that is my own epitome of the argument put forward by Mr. Setalvad and sought to be repeated so far as I could understand it, by Sir Benegal N. Rau, that is, that what led to the whole trouble in Kashmir were these incidents of 22 October, and that the trouble started with them.

Our case has been this and I put it to the Security Council, as follows, in reply to Mr. Setalvad in the next meeting of the Security Council on 24 January 1948 [235th meeting]:

"The real picture is that it is a movement of the people in Kashmir to get rid of Dogra tyranny brought about by the massacres to which I shall presently come, the existence of

which has been altogether and categorically denied by the representative of India before 22 October when the first raid took place. This movement is spreading. No doubt, there is sympathy among the tribesmen, and I have not denied the fact that there is sympathy all through Pakistan with the struggle. But the spearhead of the movement, the people upon whom the brunt of it has fallen and who are mainly fighting, are the people of Kashmir themselves. If that were not so, the movement would have collapsed within three days. How is it continuing?"

Thus, the real difference between the presentation made by the representative of India and the presentation that I have sought to make is this: that weeks before 22 October, the persecution, massacre and extermination—to use the expression employed by the correspondent of *The Times* in his contribution of 10 October 1948—had commenced: "Many of them had been killed and many of them had been compelled to leave their homes." In the words of Sheikh Abdullah himself, which I quoted yesterday, as reported in his Press statement in New Delhi on 21 October, the panic was created by the dispatch of the troops of the State to quell this movement, and thereupon the people of Poonch—those who had taken up arms—took their women and children across the border, across the River Jhelum to Pakistan, obtained arms, returned to the State, began their military campaign, and dispensed the Maharaja's forces, and this freedom movement started.

All that had happened before 21 October. That was the point I was making. If I used any expression in describing the gist of this argument which actually was not employed by the representative of India, I would both apologize in respect of it, if he has any objection to it, and I would also explain that that was the presentation of my argument which I have now put before the Security Council in the very words of Sir Benegal N. Rau himself and in those of Mr. Setalvad.

I shall now go on to deal with the problem of the disposal of the *Azad* Kashmir forces. The *Azad* Kashmir forces, it must be realized, consist of nationals of the State of Jammu and Kashmir. They are not people who have come from outside;

they are the people who started this freedom movement towards the end of August or some time early in September of 1947. But these people were not just mere rabble or just ordinary citizens who had had no military experience. The vast majority of them were ex-servicemen who had fought in the Indian armies, as they were called up during the Second World War, and there were others who were at one time serving in the Kashmir State forces, and when this disturbance and clash started, they deserted over to the freedom movement, instead of continuing to support the Maharaja's rule.

The next thing to remember with regard to them is that they are entirely an infantry force with no artillery, no armour and no air force. Their strength was, at the time when the Commission arrived on the sub-continent, thirty-two battalions, although it might be remembered that a battalion of the *Azad* Kashmir force consists of 650 men as against the 840, of which an Indian or Pakistan battalion is composed. Even in respect of the military equipment that they do possess, an *Azad* battalion is much inferior in armament and equipment to a regular Indian or Pakistan battalion. Nevertheless, it must be remembered that even in 1947 and the early part of 1948, these *Azad* Kashmir forces had first routed the Maharaja's forces and had driven them away, and had next put up a more or less equal struggle against the Indian forces that had gone into Kashmir, and had for many months held on to their positions with very little loss in their fight against the Indian forces. This was the strength, the armament and the character of the *Azad* Kashmir forces.

It is alleged, and the point sought to be made, is that during the period from August 1948 onwards, these forces have been augmented and strengthened and that, as the representative of India said "This was contrary to the understanding that Pakistan would not use the period for consolidating its position or increasing its military potential". It becomes necessary, therefore, first to see whether there has been any change, and if so of what description, in respect of the *Azad* Kashmir forces. If there has been any change, when did it take place, and was it, if it took place, contrary to any understanding or undertaking?

From the phraseology the representative of India employed in regard to this understanding, it appears that he was referring to the Commission's resolution of 13 August 1948 [S/1100, paragraph 75] in which, in part I which deals with the cease-fire order, the following words occur in paragraph B: "The High Commands of the Indian and Pakistan forces agree to refrain from taking any measures that might augment the military potential of the forces under their control of the State of Jammu and Kashmir."

The first thing to realize in respect of this is that these were the proposals which formed the resolution. This was what was proposed by the Commission to each side. The understanding or the undertaking would arise only on acceptance of these proposals.

The next thing to note, which is of great importance, is that this is paragraph B under the cease-fire order. That is to say, there is first to be a cease-fire: fighting must stop. After the fighting had ceased, each side would be bound not to augment the military potential of the forces under its control. It is obvious that this was to apply once fighting had stopped. It would not be possible, when fighting was going on, to lay down, as it were, the conditions under which the fighting should take place, as if it were a game being conducted which must be played according to certain limitations that the Council had laid down. The Commission was building up a structure, step by step, for the cease-fire, for the truce, and in order to get to the plebiscite. Obviously, the first step was the cease-fire. That is dealt with in paragraph A, which is anterior to paragraph B and says:

"The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order . . ." and so on.

Once the cease-fire has taken place both sides are bound not to augment the military potential, which is logical and perfectly understandable.

The third thing to understand is that it was not only Pakistan that was bound but India also. The representative of

India argues on the basis that, after 13 August, Pakistan was guilty of the contravention of this direction or agreement or understanding laid down in paragraph B by doing something to the *Azad* forces. We shall come to what it was and to whether anything did or did not occur. What was the position? What was the understanding or obligation? Fighting was going on. Fighting did not stop until 1 January the following year, and I fail to understand what is the understanding to which Pakistan or for that matter, India, could have adhered during that period when the cease-fire had not yet been brought about. I am sure that it was not the contention of the representative of India that, while the Indian forces went on attacking, the other side—*Azad* Kashmir or Pakistan, whoever was fighting on the other side—should take no step to withstand the attacks of these military forces. The fighting was actually going on. Not only was it actually going on at that time, but during the November Indian offensive, India pushed these forces back and deprived them of quite substantial territory. This was during the period in November 1948. Now the complaint is made that from 13 August onwards until the spring of 1949 these forces were being augmented.

That there was an Indian offensive in November 1948 cannot be denied. We made a complaint through the Commission to the Security Council that while the Commission was engaged upon setting the terms of an agreement, India had mounted an offensive in these areas, which it was pushing forward. We asked the Commission to bring this matter to the notice of the Security Council—which it did—and to take effective steps to see that the position did not deteriorate any further. The letter is dated 19 November, and on 22 November it was forwarded by the Chairman of the Commission to the Security Council [S/1196, annex 1]. The text is as follows:

“The Pakistan Government wishes to draw the attention of the Security Council to the developments in Kashmir which constitute definite violations by India of the undertaking given by both Governments in response to UNCIP’s resolution”—which was accepted by both sides”—“of 19 September 1948 [S/1100, paragraph 109]. This resolution appealed to

both Governments to use their best endeavours during the absence of the Commission to lessen the existing tension in this dispute so as further to prepare the ground for its peaceful final settlement.

"The Government of Pakistan has scrupulously observed the undertaking given by it. On the other hand, India now appears determined to force a military decision in Kashmir. The Indian Army has recently been reinforced in the Jammu area by three infantry brigades, four militia battalions, one field artillery regiment, one medium artillery regiment. A Corps H.Q. has been established in Naoshera controlling three divisions of army and one air-borne division operating in the Riasi and Poonch Districts. In the Srinagar area, reinforcement of two additional infantry brigades plus three battalions and one regiment of field artillery have arrived. The Indian Air Force operating in Kashmir has also been considerably reinforced.

"Last September the Indian Army made an attack in brigade strength on Zojila Pass which was repulsed. In October an attack in brigade strength north from Jammu towards Uri was also held, while an attack by one brigade from Jhangar towards Kotli was held, fifteen miles north-west of Jhangar. The Indian Army has now started a major offensive by at least one division supported by armoured cars from Rajauri towards Kotli and Mendhar and is continually moving up reinforcements to Naoshera. Object undoubtedly is all-out offensive to obtain possession of Western Kashmir including Mirpur, Mangla headworks and the whole of Poonch.

"Heavy fighting is now in progress on this front and a renewed flow of refugees into West Pakistan has already begun as a result of this Indian Army offensive. The Indian Army has also renewed attack by at least one brigade over Zojila Pass and has penetrated defences of Dras."—These are the northern areas to which references are presently to be made. —"These attacks on both fronts are being supported by maximum air action. It is quite clear that India's object is

to secure a decision by military means immediately and so face the United Nations with a *fait accompli*.

"Hitherto *Azad* forces, with minimum support by Pakistan Army acting in a purely defensive role, have managed to hold Indian aggression. Pakistan Air Force has so far not been employed in a combat role. The Pakistan Government cannot emphasize too strongly to the Security Council that unless immediate steps are taken by it to halt the Indian Army offensive, the Pakistan Government will have no option but to change its policy of using minimum regular forces in Kashmir and will have to undertake a counter-offensive with all available resources in an endeavour to prevent the overrunning by the Indian Army of Poonch and Mirpur districts. This must inevitably lead to most bloody fighting between regular Pakistan and regular Indian forces which up till now the Pakistan Government has sincerely endeavoured to avoid. The situation is therefore fraught with possibilities of wide extension of armed conflict."

It was requested that this letter should be transmitted to the Security Council. The Commission did so.

Pausing here for a moment, I wish to draw attention to this. The undertaking which was required by the Commission from both sides, and to which the representative of India referred, would come into operation only after the cease-fire. That is obvious. The parties could not be asked not to augment their military potential until fighting had stopped.

In the meantime, the Commission, when leaving the sub-continent for Geneva and later for Paris, made an appeal to the two Governments that they should put forth their best endeavours during the absence of the Commission to lessen the existing tension in this dispute so as further to prepare the ground for its peaceful final settlement. This was accepted by both Governments but, in spite of that, India mounted this offensive.

What was the reply of India with regard to this matter? In a letter dated 28 November 1948 Sir Girja S. Bajpai replied to the letter of the Pakistan Government in a fairly long communication [S/1196, annex 2] from which I quote from paragraph (3):

"The operations over the Zojila Pass were intended to relieve the Kashmir Valley of a threat from the north-east and the pressure by hostiles on Leh. The operation in the Poonch area, which resulted in the capture of Mendhar, was also undertaken to clear the road to Poonch, where, as the Commission is aware, a garrison of Indian troops has been besieged for some months and is still under siege."

It was not denied that military operations were undertaken—and, indeed, that was a fact. What was denied was that there was any intention to undertake any major offensive; it was held that these were minor operations, and that this was their object. But whatever their object, and whatever the magnitude of the operations, the starting of military operations in that manner was a contravention of the resolution of 19 September, which the Commission had asked both sides to accept and to which both sides had agreed.

Nevertheless, the point is that while the Indian Army was doing that, while it was attacking both in the northern areas and in the western sector, a complaint was made that during that period the *Azad* Kashmir forces were being built up. Well, what were the *Azad* Kashmir forces supposed to do? Were they supposed to just go on retreating? If you are attacked, you not only have to build up, you have to take every military action that may be necessitated in order to hold the attack and, if possible, even to push back those who are attacking.

The concrete result was that, on the western sector, as the result of this offensive, the Indian armed forces not only had already occupied Riasi, to which reference has been made in the letter, but they further occupied Mendhar, and in the northern areas they took the Zojila Pass, and later on they took Dras and Kargil and they were able to relieve Leh. A reference to the map will show that those are all now inside the cease-fire line on the Indian side; but at that time, when the Commission had left India and had made that appeal which the two Governments had accepted, those places were in the possession of the *Azad* forces. Those areas were taken away; they were taken away in the period of August, September, October and November.

And yet, the Indian Government complains today that the *Azad* Kashmir forces were being built up, and it makes a grievance of that. What did the Indian Government expect? Assuming that there was an undertaking not to augment, it applied to both sides. The Indian forces augmented, and they attacked, and they expected that the other side would do nothing. Well, is that what the undertaking amounted to, or is that what was expected? They attacked, and both in the western sector and in the northern sector they took away areas and towns from the *Azad* Kashmir forces.

What was the strength of these forces? Some point was made by my learned friend from India, and there appears to be support for it on the basis of his quotations from the reports of the Commission, that the Commission somehow did not have a complete picture of the strength of the *Azad* forces before it when it formulated its proposals of 13 August 1948. But it is not correct to say that the strength of the *Azad* Kashmir forces was not completely known to the Commission.

On 31 August 1948, there was a meeting between the Commission and myself in Karachi when we were exploring and clarifying the different implications of the provisions in the resolution of 13 August 1948. I shall quote from the official minutes of that meeting, from the beginning of paragraph 9:

"Mr. Korbelt continued that the Commission had taken great pains to assure the military balance on both sides and the element of balance had been continually at the back of the Commission's mind while drafting the resolution. He asked the Foreign Minister to take note of the fact that, even after the withdrawal of the Pakistan Army, the *Azad* forces would still muster thirty-five battalions of armed people who were not asked to disarm or to withdraw."

That is the explanation; that is the assurance which the then Chairman of the Commission conveyed to me in explaining the Commission's proposals. The Pakistan Army would be asked to withdraw during the truce stage; and, on the other side, only the bulk of the Indian Army would be withdrawn. To meet the apprehension that under those circumstances the *Azad* Kashmir areas would be placed in danger, the Chairman asked

me to take note of the fact that, even after the withdrawal of the Pakistan Army, the *Azad* forces would still muster thirty-five battalions of armed people who were not asked to disarm or to withdraw.

I am not for the moment stressing at what stage they were to be disarmed or disbanded, but I do draw attention to the fact that the Commission's proposals were based upon an assumption, and as a matter of fact were urged upon us for our acceptance on that basis, to the effect that the *Azad* Kashmir battalions were thirty-five in number and were properly armed battalions. To contend now that the Commission was not aware of the strength of the *Azad* Kashmir forces does not hold water. That was their strength; at any rate, it was the strength upon the basis of which the Commission proceeded. Actually, the strength was thirty-two, and if the Commission did make a mistake in proceeding upon the basis of thirty-five because of some error of calculation, it was a mistake which goes against the contention now sought to be made by the representative of India that they had minimized the strength of the *Azad* Kashmir forces. It is not that the strength has subsequently been discovered to be greater; the estimated strength was thirty-five, but the actual strength was thirty-two.

The question now is, to turn to another part of the case, what happened in the spring, but before I deal with that I wish to add one word: it was on the above-mentioned basis that agreement was reached on the clarifications of 23 and 25 December [*S/1196, annexes 4 and 5*]. Surely the Indian Government was fully aware of the strength of the *Azad* Kashmir battalions at that time. It knew, and had had experience of, their fighting qualities. They were not a disorganized rebel population or just a rebellious rabble; they were a fighting force, a competent fighting force which had put up an almost equal struggle against the fully equipped Indian armed forces, and they had held their positions more or less successfully against the Indian Army for several months. It was that type of force which the *Azad* Kashmir forces were.

What happened was this. The Prime Minister of India had himself expressed to the Commission some apprehension that, once a cease-fire came into operation, such a large force, if not completely controlled and under discipline, might constitute a danger. Therefore it was necessary that discipline and control should be stricter and that the organization of these forces should be on a regular military basis. Our proposals in that respect were made on 9 March 1949 to the Commission, and are reproduced in annex 10 to the third report of the Commission [S/1430/Add. I]. I quote from paragraph 11 of that annex:

"The Pakistan Government has considered the recommendations of this meeting and it informed the Commission on 8 February at a meeting in Karachi that it considered the following arrangements essential to enable it to discharge effectively its obligations under the resolutions of the Commission:

"1. The relief of the *Azad* Kashmir forces now in the forward areas by Pakistan regular troops."

This is the reorganization that was contemplated at that time. The second proposal was:

"2. The temporary withdrawal from the forward area and concentration in the rear areas of *Azad* Kashmir territory, of all *Azad* Kashmir forces to enable them to be reorganized and trained, under the supervision of G.H.Q. Pakistan, into a disciplined force of infantry units with the necessary administrative and ancillary units."

This was to bring them on to some regular basis as a controlled and disciplined force. The third proposal was:

"3. The relief, on completion of this reorganization and training, of the Pakistan regular forces in the forward areas by the *Azad* Kashmir forces."

Paragraph 12 goes on to say: "The Commission has also been informed that it is estimated that a period of some three

months would be needed for the reorganization and training of the *Azad* Kashmir forces. . .”

That was in March 1949. That is all that was contemplated and suggested in order to facilitate the carrying into effect of the relevant provisions of the resolutions of the Commission. There was nothing underhand going on at all; there was a meeting with the Commission in February in Karachi, there was a meeting with the Commission in Delhi, and the Commission was then discussing measures which would be necessary now that a cease-fire had been arranged and would be put into effect to prepare those forces for their ultimate disposal. That was the method that was suggested. The representative of India has argued that this constituted an obstruction in the way of holding a plebiscite or of making progress towards a plebiscite. Where was the obstruction? The obstruction has arisen because, contrary to its undertaking in the resolution, the Government of India now insists that the disbandment and disarmament of the *Azad* Kashmir forces—such disbandment as has to be carried out, subject to the minimum that may be required for the maintenance of law and order—should take place during the truce stage, whereas the Commission had laid down clearly, and obviously contemplated, that that reduction should take place during the plebiscite stage. That, therefore, is the next question to which I shall address myself.

Is India right in contending that the resolution required that the *Azad* Kashmir forces should be disbanded and disarmed during the truce stage, or is Pakistan correct in contending that it has to take place during the plebiscite stage? On that, of course, the very last evidence is the language of the resolutions themselves. In that respect, I would first submit that the resolution of 13 August 1948, which deals with the cease-fire and the truce, makes no reference to the *Azad* forces whatsoever, and that in itself is conclusive evidence that the disbanding and disarming of the *Azad* Kashmir forces, such as was later contemplated, was not to take place under that resolution, that is to say, not during the truce stage. It was

repeatedly explained to the Pakistan Government that that was not intended.

I have just drawn the attention of the Security Council to an assurance which was conveyed to me and which I was asked to note by Mr. Korbél, the then Chairman of the Commission, that even after the withdrawal of the Pakistan Army—and the withdrawal of the Pakistan Army would take place during the truce stage, of course—there would still be available, in the *Azad* Kashmir areas, thirty-five armed battalions of *Azad* Kashmir forces.

In the Commission's letter of 19 September 1948 [S/1100, paragraph 108] sub-paragraph 2 (c) reads as follows:

"Moreover, the Commission agrees that it will be anxious to reduce the truce period to a minimum and that the resolution does not contemplate the disarmament or disbanding of *Azad* Kashmir forces."

The reference in that paragraph is to the resolution of 13 August 1948.

I now quote from the summary record of the meeting of 17 August 1948, four days after the date of the resolution, between the Commission and the Government of India. In annex 12 of the Commission's report it is stated:

"Moreover, he [*the Chairman*] pointed out that limited Government of India forces would remain and that on the other side only the *Azad* forces would remain in their positions."

On 17 August this was clearly conveyed to the Government of India as the meaning of the Commission with regard to its truce proposals: that after the bulk of the Indian Army had withdrawn, there would still remain on the Indian side limited Government of India forces, and that on the other side tribesmen would have withdrawn, Pakistan volunteers would have withdrawn, and the Pakistan Army would have withdrawn, and there would remain only the *Azad* people in their present positions. It cannot be pretended that that was not the clear

meaning of the resolution when the Commission itself was at pains to explain that to the Government of India.

But let us go on to the resolution of 15 January 1949 [S/1976, paragraph 15]. I shall have to come back to the interval to show how the whole of this question arose and was dealt with, but let us see what the resolutions themselves provide. The resolution of 5 January 1949 was a resolution which extended part III of the resolution of 13 August, part III having dealt with the plebiscite. Sub-paragraph 4 (a) of the resolution of 5 January 1949 reads as follows:

“(a) After implementation of parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces; such disposal to be with due regard to the security of the State and the freedom of the plebiscite.”

That is the first part of paragraph 4. I am not saying that because it is mentioned first it must be completed before anything is done, but paragraph 4 has two parts and this is the first part. In this connexion I would draw Security Council's attention particularly to the fact that the representative of India, on 7 February [463rd meeting], made a grievance of the fact that although the Commission had not proposed to touch these State armed forces on the Indian side, General McNaughton's proposal [S/1453] had brought the State armed forces also into the scheme. But these are clearly mentioned here, that after parts I and II have been implemented, the final disposal of Indian and State armed forces shall be carried out by the Commission and the Plebiscite Administrator as determined by them, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.

The second part of that paragraph, sub-paragraph 4 (b), deals with the situation after the implementation of parts I and II of the 13 August resolution and after it has dealt with the final disposal of the remaining armed forces of India and

the State armed forces. This second part of the paragraph reads as follows:

"As regards the territory referred to in part II, section A, paragraph 2 of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities."

It is as clear as anything could be that in the whole scheme of demilitarization, the disbanding and disarmament, or call it the final disposal, of the *Azad* Kashmir forces is to be undertaken at this stage, and that is the balance. In the truce stage, the bulk of the Indian armed forces are to withdraw from Kashmir and, on the other side, the tribesmen are to withdraw, the Pakistan volunteers are to withdraw, and the Pakistan regular army is to withdraw. That is the truce stage. When that is completed, then the Commission and the Plebiscite Administrator will determine, on the Indian side, the final disposal of the remaining Indian forces and of the other armed forces in the State; and on this side, the Commission and the Plebiscite Administrator will determine, with the local authorities, the final disposal of the *Azad* Kashmir forces. Could any doubt be left as to what was intended by the resolutions? This was clearly communicated to the Government of India.

The Government of India had raised, it is true, the question of a large-scale disbanding and disarmament of the *Azad* Kashmir forces. But there was no question at that stage that they would be disbanded any earlier than the plebiscite stage. As late as 18 February 1949, after the acceptance of both these resolutions with that meaning and with those explanations, the correct position with regard to the *Azad* Kashmir forces was known to and accepted by the Government of India. There was no question.

I would draw the attention of the Security Council to Sir Girja S. Bajpai's letter dated 18 February 1949 to the Commission, reproduced in annex 7 of the Commission's third report [S/1430/Add. I]. I draw particular attention to paragraph 3 of that letter:

"The disarming of *Azad* forces is really a matter of chronology. First there must be a cease-fire and, after that, a truce, as envisaged in parts I and II of the Commission's resolution of 13 August 1948. After that, the condition precedent to arrangements for the holding of a plebiscite is the creation of conditions in which Kashmir nationals can return to the area now in the occupation of *Azad* Kashmir forces. So far as non-Muslims are concerned, such a movement will not take place until large-scale disarming of these forces has been carried out."

That is again quite clear. Sir Girja S. Bajpai himself interprets these provisions as meaning that it is a matter of chronology. First, there must be a cease-fire. Then, there must be a truce agreement. Then, during the truce, whatever withdrawals have to take place should take place. Then, he says, ancillary to the plebiscite arrangements, you have to create conditions under which people who have migrated from certain areas should be able to return to them and, he says, so far as the non-Muslim people who have migrated from the areas under the control of *Azad* Kashmir are concerned, it cannot be expected that they will be able to return to those areas unless a large-scale disbanding and disarming of the *Azad* Kashmir forces has taken place. That, clearly again, is as provided for in sub-paragraph 4 (b), which is a part of the resolution of 5 January, and the resolution of 5 January addresses itself to creating the conditions under which the plebiscite could be organized and held. Nothing could be clearer than that.

But, later on, the Government of India began to change its position. In his letter of 10 March 1949 to the Commission, which is annex 11 to the Commission's third interim report, Sir Girja S. Bajpai states the following:

"Pakistan forces must be withdrawn entirely from Jammu and Kashmir State territory and the disposal of the so-called *Azad* Kashmir forces during the period of the truce must be so arranged as to prepare the way for the ultimate disbanding and disarming of these forces."

Here, again, although the position has been shifted, all that was asked for at that stage was that preparations must be

made for the disbanding and disarming of those forces at a later stage.

The Commission perceived what was intended and replied to Sir Girja S. Bajpai on 14 March 1949. This reply appears as annex 12 to the report, and I quote the second sentence of paragraph 2:

"In the course of the conversations last August the Commission explained to the Government of Pakistan that in its view a 'military balance' would exist in the State of Jammu and Kashmir during the truce period in the sense and to the extent that the resolution of 13 August did not call for the disbanding of the *Azad* Kashmir forces, which the Commission understood to number approximately thirty-five battalions."

Now, when this question was raised with the Commission, that was the reply of the Commission to the Government of India. It said, "We have already explained to the Government of Pakistan that, during the truce stage, after the other withdrawals had taken place, *Azad* Kashmir forces would remain, and their strength is approximately thirty-five battalions."

The Council will note the progressive shifting of the position of the Government of India. On 18 February, it is a matter of chronology: "We realize that stages 1 and 2 of the resolution of 13 August have to be completed, and, then, in order to enable the population to return for the plebiscite stage, this has to be undertaken." On 10 March, "Preparations during the period of the truce must be so arranged as to prepare the way for the ultimate disbanding and disarming of these forces." To this the Commission replies that that is not contemplated.

Then, there is a letter from the Government of India to the Commission dated 28 March, which is set forth in annex 16, part 2 of the same report, in which it says that it adheres to the position that nothing should be done after the withdrawal of the Pakistan forces which would "enable the territory evacuated by the Pakistan troops to be consolidated in any way during the period of the truce to the disadvantage of the State. The Government of India adheres to this view and

reaffirms its request that action should be taken to disband and disarm the so-called *Azad* Kashmir forces."

Well, the position has shifted from "the disposal of these forces must be so arranged as to prepare the way for the ultimate disbanding and disarming of these forces," which was what was asked for on 10 March—and to which the Commission declined to accede—to the position now taken, which is: "the Government of India adheres to this view and reaffirms its request that action should be taken to disband and disarm the so-called *Azad* Kashmir forces."

When this was encountered, we wrote a letter on 14 April. This letter is not, I believe, to be found among the documents which have been presented to the Council by the Commission, but it is in the Commission's records. It is dated 14 April 1949, and is from Mr. M. A. Gurmani, Minister for Kashmir Affairs of the Government of Pakistan, to the Chairman of the Commission. I quote from sub-paragraph 3 of paragraph 7, where we made this offer:

"After the publication of the truce agreement, and as soon as the regular forces on both sides have begun to withdraw, discussions under clause 4 of the resolution of 5 January 1949 regarding the final disposal of the Indian and State forces, on the one hand, and of the *Azad* forces, on the other, may be initiated. Any agreement reached as a result of these deliberations would not preclude the Plebiscite Administrator from taking any further action with regard to the Indian and State forces and the *Azad* Kashmir forces at a later date."

We practically met the request of the Government of India made on 10 March 1948, that is to say, that after the publication of the truce agreement and as soon as the regular forces on both sides had begun to withdraw, then discussions might take place regarding the final disposal of the Indian and State forces on the one hand, and of the *Azad* Kashmir forces on the other. This is a fact which the documents would not disclose, but it is relevant in this connexion, and that is why I have drawn the attention of the Council to it.

In its letter of 28 April forwarding its truce terms to the Government of India, the Commission stated, as set forth in annex 22, sub-paragraph 4 (a) of the Commission's third report:

"The Government of India will understand that the Commission cannot deal at this stage with the question of disbanding and disarming the *Azad* Kashmir forces, since it does not fall within the purview of part II of the resolution of 13 August. Nevertheless the Commission appreciates the significance of the question and is anxious to consider it without delay. While the Commission cannot share the view of the Government of India that a reduction of its forces beyond the strength mentioned in your letter of 17 April 1949 must depend upon the actual disbanding and disarming of the *Azad* Kashmir forces, it is convinced that an early study of the matter would hasten the preparations for the plebiscite."

We had already offered the early study of the matter.

Pausing here, the position was that the resolution of 13 August did not in any manner whatsoever refer to the *Azad* Kashmir forces. The resolution of 5 January completes the whole picture with regard to the third stage, which was the plebiscite stage. The resolution of 13 August dealt with the cease-fire stage and the truce stage. The Government of India understood, it appears both from the language of the resolution and from the explanations given to the Government of India and also from the Government of India's own understanding of the communications to the Commission, that the disarming and disbanding of the *Azad* Kashmir forces was not contemplated in the truce stage.

Then the resolution of 5 January 1949 was framed, based upon the agreement of the parties, and paragraph 4 therein deals with this matter, that is, with the final disposal of the remaining Indian forces and the armed forces of the State of Jammu and Kashmir, on one side, and the *Azad* Kashmir forces, on the other.

The whole thing is perfectly clear. As I have said it is true that up to 18 February the Government of India had understood the position to be as I have explained it. From 10 March, it began to shift its position and progressively to increase its demands until the demands became that the disbanding and disarming of the *Azad* Kashmir forces should take place during the truce stage.

Now who has been responsible for obstructing the further progress of the plebiscite, based on the recital of these facts? That is for the Security Council to determine. Has the Pakistan Government in any manner gone back upon what it has agreed to do? Or is the Government of India seeking to go back upon what it had agreed to do with regard to that stage?

The next question that deserves the attention of the Council is that of the administration and defence of the northern areas. The northern areas were defined by the Commission in subparagraph (v) (a) of its letter dated 16 April 1949 to the Government of Pakistan [S/1430/Add. 1, appendix 19] as "the area of the State north of the positions presently occupied by the Indian Army, with the exception of Gilgit Sub-division and Agency."

The question of these areas was first raised with the Commission by the Prime Minister of India in his letter of 20 August 1948 [S/1100, paragraph 80]. With regard to this there appears to be some misconception in the minds of the Commission members themselves, though in their final report they presented the situation as it stands. However, they appear to have been under the impression that the position with regard to the northern areas was somehow consolidated on our side of the cease-fire line between 13 August, the date of the first resolution and 5 January, the date of the second resolution. That, in fact, is not so.

Actually, on 20 August, the day on which the Prime Minister of India wrote his letter to the Commission, the Government of the State of Jammu and Kashmir was not responsible for the administration of one inch of the territory comprised within what is now known as the northern areas, and the armed forces of the Government of India or of the State

were not in occupation of one inch of this territory on that date. The actual position was that a considerable amount of the territory which was included within these areas and which was in the occupation of the other side's armed forces was subsequently taken away by the Government of India in its offensive in November of 1948, as I have explained earlier this afternoon to the Council. Zojila was attacked and occupied; Dras was taken; Kargil was taken, and Leh was relieved. All along that line beginning with the Zojila Pass right up to Leh, the whole of that territory, which on 20 August was in the occupation of the *Azad* forces or local forces that were operating with them, was in the possession of those people and not in the military occupation of the Government of India. All that happened between 20 August, the date of Pandit Nehru's letter to the Commission, or 13 August, the date of the resolution, and 5 January, was that in the meantime the Indian Forces had, as the result of their offensive, occupied Zojila, Dras and Kargil, and had gone on to relieve Leh. Therefore, the boot is really on the other leg. There is no challenging of these facts. That is what happened.

As a matter of fact, the reply of Sir Girja S. Bajpai [S/1196, *annex 2*] in answer to my letter of 19 November, (S/1196, *annex 1*) drawing attention to this offensive, admits that, in both the western sector and in the northern sector, military operations—he does not admit that it was an offensive—were undertaken for this purpose and that that purpose was achieved. In his letter of 20 August 1948 (S/1100, *paragraph 80*) Pandit Nehru mentions that they were "roving bands". There is no question of "roving bands". The population, as the Commission has stated, is 100 per cent Muslim in those areas. They had risen in revolt against the authority of the Maharaja in the beginning. They excluded everyone who had any connexion with the Maharaja in that area, and ever since then no one has ever returned, except in those areas taken as a result of military action and in the areas on their side of the cease-fire line. There is no question of the situation having undergone any change at all. No doubt there is the question that, for purposes of security, there are to be permitted to place garrisons on the

extreme northern frontier of the northern areas. The Commission said that that is a matter which can be taken into consideration at the time of the implementation of the resolution. At any rate, that is a matter that was never brought to our attention until the documents released by the Commission were published.

In any case, from the point of view of security, which is being stressed by India—security against whom?—the cease-fire line had been drawn and both sides were under obligation not to violate it. The cease-fire line now has been in operation in actual fact after the firing had stopped for over thirteen months, and with the exception of a few minor incidents, nothing has happened to interfere with the cease-fire line. What is it that the Government of India wants to provide against by putting military garrisons in places which have never been under its military occupation at any time during the history of this dispute, and which are on the other side of the cease-fire line? Security against whom? Well, it may be said, security against the incursions of tribesmen. In that connexion, the other day the representative of India, when he was addressing the Council, raised this point. He said, in effect, "Well, it is said that the Government of Pakistan has offered an assurance that it would deal with any contingency of that description that might arise within its own areas and its own frontiers, even if it necessitated military action." He said, in effect, "Well, that would not work for the reason that if the Government of Pakistan were not able to stop the incursion of tribesmen in 1947, how is it possible that they would be able to stop the incursion of tribesmen now in 1950 or 1951, until the plebiscite has been held, organized and completed?"

Now, there is a fundamental misconception at the basis of that apprehension or argument. In the first place, let me call attention to the assurance which we did convey, and that in itself will show why such an assurance can become effective. I have here a letter which I think has not been distributed. It is a letter dated 28 November 1948 from me to the Chairman of the Commission. It is not included in the documents released by the Commission, but it is available to the Council, it is with

the Commission's documents. I shall now quote from the middle of paragraph 4:

"The Government of India has, however, pressed for the retention of Indian forces in Kashmir for purposes of defence as well as of internal security. The Pakistan Government believes that once a settlement has been reached with regard to the organization and conduct of a free and impartial plebiscite, there will be left no further risk of a threat to the security of the State of Jammu and Kashmir. In any case, should such a threat unfortunately arise, the Pakistan Government will undertake to deal effectively with it within its own borders, even if this should necessitate use of its armed forces. This should dispel any fears that the Government of India might entertain on this count."

That also gives the reason why such an assurance can now be made effective. What led to the incursion of the tribesmen originally? In spite of the contrary assertions and allegations of the representative of India, I urge that what led to the original tribal incursions was the massacres that were taking place and the apprehensions that the Muslim population of the State would be dragooned into declaring its acceptance of the accession of the State to the Indian Dominion. That was the crux of the matter. That is why fighting was taking place. That is the view expressed by almost every member of the Security Council who spoke on this aspect of the matter during the discussions from January to April 1948 before the Security Council.

Why is the fighting taking place? The fighting is taking place because this freedom movement started against the Maharaja, the immediate cause having been the suspicion that the Maharaja wanted to accede to India, and the tribesmen went in, as a result of the incident that had taken place. How could it be stopped? It was repeatedly asserted that it could be stopped only when the people were effectively assured that, while they were fighting to obtain what they wanted, they could obtain this by means of the exercise of their franchise. That is very good. Once that agreement had been arrived at and

conditions agreed to under which the plebiscite would take place, the main objective would have been achieved and assurances could be given to the people. It is of no use to create trouble; you need not be impatient over it; hold your souls in peace. Both Dominions have now agreed on what should be done, and it is being done under the authority of the United Nations. The people of Kashmir will have the right and the freedom to decide their own future. That is the main reason why an assurance can become effective today.

Also, fighting has stopped; the tribesmen are out. At that time there was a sudden movement all through the tribal areas before anybody was aware of it, and that led to these incursions. Now the situation is quiet. If an agreement can be reached and if the various stages can begin to be put into operation, there is every reason to believe that no further trouble need be feared. But, as I have said, if further trouble should arise, it cannot be of a nature which cannot be dealt with within the frontiers of the Pakistan Government, and as the Government of Pakistan has said, "We are willing for them to take that step; even if it should necessitate the use of our armed forces, we should be willing to use them."

At that time, with all those factors, even with regard to our armed forces, what was our position? As I then said and as I repeat again, we could not have afforded to undertake, in those circumstances, first-class military operations against the tribal areas; they were all up in arms; the whole area was afire. But even then, what was our military situation? The partition had just taken place. The holocaust between East and West Punjab was going on. Attention was drawn to this in the discussion which took place in 1948. The greater parts of such armed forces as were available were occupied with the duty of maintaining law and order, and from the point of view of equipment, as the Security Council is aware because that was one of our complaints before the Security Council at that time, out of 165,000 tons of armaments and material which the Government of India was bound to deliver to us as the equipment of our armed forces, I believe that not more than 20,000 tons have yet been delivered; the greater part has not yet been delivered. But that

is beside the point. The point I am making now is that up to that time only 13,000 tons had been delivered, and now about 23,000 or 25,000 tons so far has been delivered. That was the state of our equipment. In the meantime, of course, we have had to equip our armed forces as best we could ourselves, so that, from the point of view of the likelihood of an emergency arising, there was every hope that it would not arise. If it did arise at all, it would be on a very, very small scale.

We do not believe it will. If it did arise on that very, very small scale, we could adequately deal with it through our political arrangements, and if it could not be dealt with through political arrangements, then military action might become necessary. That should be enough to dispel any doubts in the minds of the Government of India on that score. As a matter of fact, the McNaughton proposals lay down that the arrangements made by the Government of Pakistan in this respect should be communicated to the military adviser; he should be advised of them so that he is satisfied that they are adequate. That should more than satisfy the Government of India on that score. That refers to the tribal incursions. As a matter of fact, if any tribal incursion took place at all, it would not take place in the northern areas. The northern areas have very high valleys, are very sparsely populated, and populated to the extent of 100 per cent by the Muslim population. What would the tribesmen wish to do there, even, if they could easily get over those high passes? If the object was to get into the Valley, they could not come through the northern areas.

The second question may be, although it has not been raised and we do not know what the point is, that India is anxious with regard to security against some major Power invading those areas. That has only to be mentioned for the Security Council to realize that if that contingency should again unfortunately arise, and Heaven forbid, it would not be a question of a few battalions here and there in those areas. In the first place, in any case, no sane commander would wish to bring his troops to those areas over those high ranges, some of them rising to over 25,000 feet and where even in the passes through the ranges, which rise to between 15,000 and 19,000

feet, not more than one mule or, at the widest places, two mules at the most, can pass. But if the contingency did arise, it would not be these few battalions of the Indian armed forces which would be able to do anything, and in that event the defence of the whole area starting from the Persian Gulf and extending right up to the Karakoram would be the business of the Pakistan Government. That is a contingency for which it is idle to provide, and in any case it cannot be provided for by placing a few armed camps along these high ranges in the northern areas. The whole attempt is to obtain military occupation of an area of which the armed forces of India have never been in military occupation, to the extent of even one inch, at any time since this dispute began.

Another argument sometimes put forward has been that the northern areas control the trade routes into Sinkiang. Broadly stated, the proposition is correct, Sinkiang being farther to the north. After all, the trade routes pass somewhere. But actual study of the geography and of these routes will show that there are only two routes from Sinkiang into those areas over the passes. One runs through Hunza into Gilgit, and those places are outside the northern areas, which means that there is no dispute with regard to them. That route does not pass through or anywhere touch what had been defined as the northern areas with regard to which this controversy is being carried on. The other route, which is less frequented because it is not so easily negotiable, particularly in winter, passes through Leh and Zojila Pass. That is entirely in control of the Indian side already, and no part of it passes through or touches the northern areas, so that trade is not affected in these northern areas through which neither of these two routes passes. Thus we cannot conceive of any contingency which necessitates the Government of India's insisting that it must have forces in these areas. In any case, the resolutions are again clear on that matter. There is nothing with regard to it in the resolutions, and, so far as concerns the Government of India, although it did at one time bring this question forward, it stated that this was not a condition to its acceptance of the resolution of the Commission.

In paragraph 80 of the Commission's first report (S/1100) it is stated:

"The Prime Minister of India submitted another letter dated 20 August"—to which I have already referred—"the contents of which, according to the statement of Sir Girja S. Bajpai, were not to be considered as a condition to the acceptance of the Commission's resolution by the Government of India."

That is the letter which raises the question of the northern areas. The Government of India raised the question but said, "We do not make it a condition". It merely brought it to the notice of the Commission. With regard to the argument that the Commission had gone so far as to say that under certain contingencies, when the Plebiscite Administrator of the Commission might determine that conditions so necessitated, certain Government of India forces might be stationed in those areas, General McNaughton had excluded even that altogether.

To begin with, it was, after all, dealing only with a contingency, and it is obvious that, in order to be rid of this matter over which the Government of India was raising difficulties, the Commission chose to reserve it within its own hands. But the proper comparison of General McNaughton's proposal is not what was being said during the truce conference between the Government of India and the Commission: the proper comparison is between the two resolutions of 13 August and 5 January, and the proposals of General McNaughton. But even apart from that, in its third report [S/1430] the Commission has clearly stated that any attempt to post Indian armed forces in these areas would restart the fighting. I repeat, "would restart the fighting". Is it the object of the Government of India to have the fighting restarted, or, would the Security Council be willing to lend its support to any proposal which could, in the view of the Commission—and the Commission was fully justified in taking that view—restart fighting in those areas?

In paragraph 274 of its third report, the Commission has said:

"The spirit of the 13 August resolution had to be observed. Its underlying principle was the withdrawal of forces from the State, the reduction, not the extension on military activities. It contemplated, and expressly stated, that the Indian Government would maintain within the lines existing at the moment of the cease-fire those forces of its army which, in agreement with the Commission, are considered necessary to assist local authorities in the observance of law and order."

That is to say, the observance of law and order on its side to the cease-fire line. Paragraph 275 continues:

"The situation in the northern area today is such that the posting of garrisons by the Indian Army at any point beyond those which are now held by it would result in an extension of military activities by the Government of India, although it need not necessarily imply an increase in the military potential which both Governments have agreed is not to take place on either side."

That is the position. It is absolutely incorrect, as a matter of fact, to suggest that anything had been done or had happened with regard to the northern areas between 13 August and 5 January to the prejudice of the Government of India or of the State of Jammu and Kashmir. All that had happened was that, to the prejudice of the *Azad* Kashmir side, certain territories had been taken away from it within these areas. In the remaining territories the Maharaja's authority had never been acknowledged since the first eruption of the population in revolt against him, and not an inch of ground had ever been occupied by the military forces of India. The whole problem is demilitarization. Actually, this would not be demilitarization: it would not even be remilitarization: it would be new militarization in areas where there had been no militarization by the Government of India's forces. The cease-fire line having been drawn, its whole object is that neither side is to be permitted to cross it—neither its forces nor its officers—and

this was clearly understood in those same minutes of the meeting held on 31 August 1948 between the Commission and myself in Karachi.

The then Chairman of the Commission made this clear, as can be seen in the following quotation:

"The Commission, continued Mr. Korbé, would assure the Pakistan Government that no Indian soldiers would tread on the evacuated territory." Then how is it possible for the Government of India to contend that there was contemplated, or now to demand, that its forces should be placed on the other side of the cease-fire line in areas which they had never occupied, had never been permitted to enter, and never succeeded in entering in spite of their offensives, of their fighting and of everything they could do?

With regard to the cease-fire line, I shall quote from paragraph 276 of the Commission's third interim report:

"The Karachi Military Conference of July has settled the question of the cease-fire line. The line is now demarcated and agreed to by India and Pakistan. Until such time as the conditions envisaged in the resolution of 5 January have been created and normal life begins to return to the State of Jammu and Kashmir, the line which is today a guarantee against a resumption of hostilities should be scrupulously observed by the Governments of India and Pakistan, and the opposing forces should remain behind it."

That, I submit, settles that matter.

Certain questions were raised by my learned friend which have not so far been covered by the submission that I have made. They are rather miscellaneous—of course, he was perfectly justified in raising them—but I must make my submissions on them apart from what I have already said.

My learned friend raised the question of the sovereignty and integrity of the State. He said that so long as those have not been secured, or were in jeopardy, or so long as conditions existed which were inconsistent with them, progress could not

be made toward holding the plebiscite; I suppose that would be the argument.

In that connexion, he drew attention to the fact that the Indian Government's reaction to the resolution of the Commission of 13 August 1948 was that it was prepared to accept certain parts of it only, subject to certain conditions. Those considerations were set out in Pandit Jawaharlal Nehru's letter of 20 August 1948 to the Commission. I shall read the relevant portion of that letter, which is set out in paragraph 78 of the Commission's first interim report:

"That paragraph, part II, section A, paragraph 3 of the resolution, should not be interpreted, or applied in practice, so as:

"(a) To bring into question the sovereignty of the Jammu and Kashmir Government over the portion of its territory evacuated by Pakistan troops;

"(b) To afford any recognition of the so-called *Azad* Kashmir Government; or

"(c) To enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State."

In connexion with the same paragraph, the clarifications given to the Pakistan Government by the Commission included the following, which I quote from the Commission's letter of 3 September 1948, which appears in paragraph 90 of the Commission's first interim report:

"In connexion with part II, section A, paragraph 3 of the resolution, the term 'evacuated territory' refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command, it being understood that the population of these territories will have freedom of legitimate political activity."

The whole trouble was that the Commission was faced with this actual position that an impartial administration, a neutral

administration, for the whole of the State, comprising both sides—or even a coalition administration—was not acceptable to the Government of India. That being so, although that was contemplated and laid down in the resolution of 21 April 1948 [S/726] of the Security Council, the actual fact was that the authority being exercised on both sides was being exercised on the one side by what was known as the Government of the State of Jammu and Kashmir and, on the other side, by the *Azad* Kashmir Government. But India insisted that the *Azad* Kashmir Government should not be designated as such in any of these documents, so that the Commission should not by any implication be construed as having given recognition to the *Azad* Kashmir Government. That is why the Commission, while talking of the State of Jammu and Kashmir, on the one side, talks throughout of the “local authorities”, on the other, although it is clearly understood that by the “local authorities” it means the *Azad* Kashmir Government.

In that connexion, the Commission explained, in sub-paragraph 2 (a) of its letter of 19 September 1948, which is set forth in paragraph 108—of the Commission’s first interim report: “. . . the existence of the *Azad* Kashmir movement has not been ignored by the Commission, consideration thereof appearing in part II, section A, paragraph 3, of its resolution of 13 August.”

The Commission was at pains to explain that it recognized the existence of this movement and these authorities, except that it referred to them as “local authorities”. As a matter of fact, it was repeatedly explained to us. We were anxious not to create difficulties on technical points, and we said: “All right, as long as it is recognized in actual fact, it does not matter by what name the movement is called.”

Sir Benegal N. Rau, my learned friend on the other side, drew the attention of the Council to the true proposals, where he said this principle had been recognized. He quoted from paragraph 3 of section A of the first proposals, which are set forth at the end of annex 17 of the Commission’s third interim report, and in which the Commission said: “The territory evacuated by the Pakistan troops will be administered by the

local authorities under the surveillance of the Commission and without prejudice to the sovereignty of the State."

I might draw the attention of the Council to the fact that in annex 21, where the final draft of the true terms appears, this matter is dealt with under the heading "General Provisions". What is stated there runs as follows: "The territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission." The words that follow in annex 17—"without prejudice to the sovereignty of the State"—do not appear in the corresponding provision in the final draft. But it is a fact that at another place in their proposals, in part III, section G of annex 21, the Commission says: "These terms are without prejudice to the territorial integrity and the sovereignty of the State of Jammu and Kashmir."

What did that mean? In annex 23, which contains the text of a letter dated 28 April from the Chairman of the Commission to the Pakistan Government, sub-paragraph 4 (d) says:

"Part III, section G recognizes that the Commission cannot pre-judge the sovereignty and integrity of the State as a whole. It should not be construed as envisaging the introduction into the area to be evacuated by Pakistan troops of civil or military officials of the Government of Jammu and Kashmir or of the Government of India for the purpose of administration or control. The Commission does not feel that the presence of this clause in the enclosed terms introduces a controversial subject, nor does it in any way affect the agreement already reached by both Governments in their acceptance of the Commission's resolution of 13 August 1948."

It is therefore quite clear that the Commission was not giving countenance to any fresh doctrine. All that it was laying down was that the disposal of this question would be for the State of Jammu and Kashmir as a whole, and that the Commission itself was taking up no position with regard to sovereignty or such cognate matters one way or the other. It was not

prejudicing or prejudging the question in any way. It is in this connexion that the representative of India drew the attention of the Commission also to the resolution of 5 January, subparagraph 3 (b) of which lays down: "The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite." He asked: How could the Plebiscite Administrator derive his powers from the State of Jammu and Kashmir if the State of Jammu and Kashmir had no authority over the northern areas? I shall presently explain to the Security Council what was meant by this clause, what was its genesis, and what was meant by the Commission, but if that argument were pressed to its logical conclusion, it would mean that the administration and military control of the Government of India should be restored not only in the northern areas, but throughout the whole of the territories occupied by *Azad* Kashmir. Otherwise, how was the Plebiscite Administrator going to derive authority in respect of those areas if the State of Jammu and Kashmir was not administering them and had no military control over them?

That argument cannot stand at all. As a matter of fact, what happened was this. When the Commission adumbrated this, it was pointed out to its members that this clause might be misconstrued as meaning that the State of Jammu and Kashmir should mean the Government of Sheikh Abdullah, or whatever might take its place and that unless they invested the Plebiscite Administrator with specific powers, he would not have those powers at all. The Commission said that that was not what was contemplated; all that was contemplated was that he should be deemed to have derived his powers, as a matter of legal technicality, from the State of Jammu and Kashmir. Not even the Government was mentioned; it was the State of Jammu and Kashmir, as a legal doctrine.

It was again pointed out that there were areas which were not under the military control or administrative control of either the Jammu and Kashmir or of the Government of India. Would any attempt be made to argue that authority should be

derived from that State also? The reply was that the words "the State of Jammu and Kashmir" meant that he was deriving authority from whosoever had authority in respect of the State of Jammu and Kashmir. It was only a formality which was being complied with. To some extent, no doubt, it would soothe the feelings of the Government of India to know that the *Azad* Kashmir Government was not being brought into the matter. I shall now proceed to substantiate that explanation of the Commission.

In the summary record of the minutes of the meeting held on Thursday 2 December 1948 in Paris between the Commission and myself, a discussion on these points is reported. We said, in the first place, that if the Plebiscite Administrator were to derive his authority from the State of Jammu and Kashmir, he would have to submit his proposals to it, and it might say that the powers he sought were not necessary and might accordingly withhold them.

The summary record states:

"Mr. Ayub explained that as the Plebiscite Administrator was empowered by the Government of the State to take certain measures, he might have to submit his proposals for approval by the Government. Mr. Huddle (United States) felt that this question was a mere formality because the Plebiscite Administrator might be obliged to resort to certain powers which would be beyond the authority of the Government of the State."

He might not be able to exercise even those powers. Again, there is the memorandum dated 25 December 1948 embodying the clarifications given by M. Lozano to the Government of Pakistan when he visited Karachi before these proposals were accepted. This is contained in annex 5 of the Commission's second interim report [S/1196]:

"*Clause B. 3 (b)*: By the expression 'the Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary', is meant that the Plebiscite Administrator will be competent to exercise such powers

as he considers necessary for organizing and conducting the plebiscite and for ensuring its freedom and impartiality, and he shall be deemed to have derived those powers from the authorities concerned. The organizing and conducting of the plebiscite will be the responsibility exclusively of the Plebiscite Administrator."

That was the clarification. The Administrator was to be competent to exercise all the powers he considered necessary and he was to be deemed to have derived those powers from the authorities concerned. That is to say, whoever is exercising authority in whatever area, he will be deemed to be acting on the authority given him by them. If it was a question of the State of Jammu and Kashmir in the sense of the Government of Jammu and Kashmir, by virtue of what authority would the Plebiscite Administrator call upon, say, the *Azad* Kashmir authorities to do anything to carry out any of his directions in the western areas? How would he exercise his authority? What provision has been made? This was the provision made in order to take over this difficulty. The Commission chose this phraseology, and said he would be free to exercise any powers that he considered necessary to ensure the fairness and impartiality of the plebiscite but, technically, his authority would be deemed to be derived from the authorities concerned, whether the Government of the State of Jammu and Kashmir or the *Azad* Kashmir Government. The *Azad* Kashmir Government was not specifically mentioned because of the difficulty which had arisen in regard to the sensitiveness of the Government of India. The argument that unless the Government of India or the State Government has authority over the northern areas the plan cannot be effectively carried out, cannot hold water at all. If there were anything in that argument, how would the Plebiscite Administrator exercise authority in Muzaffarabad and Mirpur? They do not claim to have authority over those areas, and if the argument is not valid in that case, how can it apply elsewhere?

This whole question of sovereignty and integrity is a purely technical question which the Security Council, from the very

beginning, has set to one side. It will not go into it; it is not here to decide these technicalities. It is a human problem, and the Security Council as the representative—or, I must say, in these matters, the custodian—of the conscience of the civilized world, must approach it in that spirit and see how it can resolve the question. In 1948 the Council did make certain recommendations. The Commission went out. After a good deal of difficulty, and after the Pakistan Government had to yield a great deal of ground in respect of what it considered necessary for the fairness of the plebiscite, these two resolutions were eventually agreed upon. Today the only question is, what do they mean?

The parties have agreed to these things. As a matter of fact, neither side has said that it wants to back out. The Pakistan Government is prepared to carry out the obligations of the resolution of 13 August. The Government of India has not said it is not ready to carry them out. The question is, what do certain portions mean? It should be easy to resolve that. But the problem has to be approached from the proper standpoint. That opinion is reinforced by the very respected, charming Ambassador of India to Washington. She uttered this charge to the General Assembly of the United Nations in Paris. She said—and I shall presently give the reference:

"We are by our own acts gradually undermining the prestige of our Organization and taking away from the peoples of the world their only hope. This resolution recommended by the Fourth Committee for adoption by the General Assembly has already been hailed as a tacit acceptance of the position taken by the Union of South Africa and as indirect approval of its policy by this General Assembly. My delegation has often been charged with trying to influence the emotions of the General Assembly. Perhaps a slight emphasis on the emotions is necessary to prevent us from becoming completely enslaved by legalities. We are rapidly reducing the General Assembly and its Committees to the status of law courts where lawyers discuss proposals and conditions of issues exclusively from the legal angle. In

such atmosphere there seems no place for any other consideration, though it should hardly be necessary for me to remind representatives that human problems have been solved only by a human approach and never through courts of law. The pursuit of such a policy spells disaster for the United Nations as an Organization that could implement the hopes and aspirations of mankind. I am content to leave this thought with this Assembly."

Substitute Kashmir for South Africa in this passage, and I address the same appeal through Mrs. Pandit to the Security Council.

But there is no foundation for these legal and technical considerations. They have been taken care of, and, to the extent to which they have not been taken care of, they have been given up for the purposes of holding a plebiscite. The two resolutions are absolutely clear on these points. They are complete in themselves as setting up a scheme. Now the question is the implementation of that scheme.

Then we come to the final stages. With regard to integrity, I might draw the attention of the Security Council to one matter which I have already to some extent stressed. If by "integrity" what is meant is that the whole of the State should be under one authority, then the Government of India has its choice. The Security Council contemplated that kind of integrity. It suggests an impartial, neutral administration for the whole of the State, as free from the appearance of partiality as human ingenuity could make it. Very good. India has that choice.

In the resolution of 21 April 1948 [S/726] a coalition Government of the two sides of the political parties was suggested. That would also bring about that kind of integrity. The Government of India has its choice. If it is prepared, then we are prepared also. But if by "integrity", the Government of India means the military control of the whole of the State—obviously, Sheikh Abdullah's administrative control of the whole State—that is nothing to which the Pakistan Government could agree, and is not what was meant by the Security Council or by the Commission or by any State.

Let me make this clear. What does the Government of India mean by "integrity"? If it is as the Commission understood it to mean—that nothing shall prejudice the integrity of the State, that the plebiscite shall be held and the decision shall be binding with regard to the whole of the State—then nobody has gone back from that position. We insist on that position being maintained. When the Commission found itself at the end of its efforts to make progress with regard to the truce, as the Security Council is well aware, it made a proposal that the two sides should agree to submit to arbitration such differences as had arisen between them over the truce arrangements. That was reinforced by a very earnest appeal by President Truman and Prime Minister Attlee. We accepted; India declined. One does not know the exact grounds of India's refusal to go to arbitration over these matters. After all, it seems obvious to us that if I enter into an agreement with somebody else, and differences arise over the interpretation of the agreement, the only method of settling those differences is either by judicial determination of the meaning of the agreement, or by arbitration.

But there have been indications, once or twice, that the Government of India could not accept arbitration, because the terms of the arbitration were indefinite. If that was so, surely those terms could have been settled by the mediation of the Commission; they could be settled through the means of the Security Council. In any case, it appears that it is not difficult to state the points of difference, because they were stated the other day by the representative of India in his submission to the Council, and they have been replied to by me. It should be quite possible to determine what are the differences. This is the main difference: the demilitarization of the northern areas, within which problem arise the questions of the stage of the disbanding and disarming of the *Azad* Kashmir forces—if the Government of India thinks that question arises—and of the synchronization of the withdrawal of the military forces. In any case, the significant point is that, with regard to demilitarization, which is the main question, the final disposal of the forces remaining on either side during the truce stage has to be

carried out by the Plebiscite Administrator in any event, under paragraph 4 of the resolution of 5 January. If he is to do that what risk is there for anybody in the suggestion that, at an anterior stage, he should arbitrate between the parties as to how far, in the truce period, demilitarization is to go? The Plebiscite Administrator, a man of the standing, of the experience, of the reputation which he possesses—an Administrator agreed to between the parties—has to make the final disposal, so why can we not entrust him to determine what should happen in between, or to determine what the parties had agreed to in between?

That is all that had to be determined. But that was declined.

It has also been said: "We cannot go to arbitration over matters which have already been settled by the Commission." Well, suppose that we say a matter is settled. After all, we say, and we think we have made it clear to the Security Council here, that the question of the disarming and disbanding of the *Azad* Kashmir forces arises at the plebiscite stage, and not during the truce stage. That is clear to everybody; it certainly is very clear to us. But we do not say: "This cannot go to arbitration." We are prepared for it to go to arbitration in this sense: let the arbitrator determine whether we did agree to that disbanding in the truce stage. If we did, let it be carried on. After all, whenever a dispute arises, one party alleges that this has been determined in this sense; the other party says, no, this has been determined in the other sense. That is what a dispute over an agreement means. How else does a dispute over an agreement arise?

Then, it has been said: "We cannot put the question of security under arbitration." But nobody suggests putting the question of security under arbitration. The question is: What was agreed upon? The Commission had gone into all these questions—security, law and order, withdrawals, cease-fire, truce, everything—and built up that structure. The only question is: What does that mean? No one says that the question of security should be put to arbitration. As a matter of fact, the final disposal of the armed forces of India and of the State armed forces has to be determined, under sub-paragraph 4 (a) of the 5 January resolution with due regard to the security of the State

and the freedom and impartiality of the plebiscite. In any case, however, any considerations of security which are dealt with by these resolutions can be raised before the arbitrator.

But the position of the Government of India is: "This is what we say. . . These words ought to mean. . . Therefore, everybody must accept that that is what they do mean, and we cannot ask anybody else to determine this."

Then, as I have said, the Commission found itself at the end of its resources and reported the matter back to the Security Council. The Security Council requested General McNaughton to get in touch with the parties and to see whether he could bring about a settlement. Well, General McNaughton has himself made a report on that matter to the Security Council [S/1453]. It is unnecessary for me to reiterate something of which the Council is fully aware. The General carried out his task. He has made two reports: one interim report, and one presented to the Security Council on 3 February. The proposals are before the Council. They are based on certain fundamentals: that is true. But those fundamentals have been agreed upon between the parties: that the future of the State, the question of the accession of the State to India or to Pakistan, should be determined through a free and impartial plebiscite. Very good. Then, as General McNaughton has explained, he proceeds on the basis that the agreement already arrived at must be preserved, and that the difficulties that have arisen since that agreement, and with reference to it, should be resolved. But he says that he leaves aside legal technicalities and even the question of who is right or who is wrong in the argument; he takes the problem of demilitarization as a whole, and he does make certain changes with regard to the scheme that was visualized by the Commission. He says, "In my opinion, this is fair and this should be done."

The representative of India has submitted these proposals to meticulous examination and comparison. He chooses whatever he thinks goes in his favour anywhere in the resolutions, and correspondence and the clarifications with the Commission, or in the truce proposals of the Commission, and, if that has been in any manner changed or modified in the

McNaughton proposals, he says: "Well, this prejudices me." But he does not look at the other side of the question. After all, either the McNaughton proposals could be identical with what the Commission had done, in which case, his grievance, I presume, would be: "Not having agreed to the Commission's proposals, how can we agree to these; they are merely an attempt to repeat them"; or the McNaughton proposals could be different, in which case, in order to have a complete scheme of his own with regard to the questions that were in dispute, the General's proposals would have to go beyond the Commission's recommendations in some respects and fall short of those recommendations in some other respects.

That is obvious, it is inescapable. Who could make any grievance out of the whole of that? What is the real prejudice that the representative of India complains of with regard to those proposals? His only prejudice is that his point of view, which was unacceptable to the Commission, has, by and large, been equally unacceptable to General McNaughton. But General McNaughton has made an effort with regard to the demilitarization in the *Azad* Kashmir territories, by bringing about demilitarization with respect to the *Azad* Kashmir forces, not in one stage—the plebiscite stage—but divided between the truce stage and the plebiscite stage. In that respect, the proposals are different in one or two minor respects, too.

The McNaughton proposals which were accepted by us were rejected by India. The matter has now come before the Security Council again, and it has been debated. The Security Council is now in full possession of what has happened so far. The question is, what is to be done? As I said in the opening part of my submission to the Council, on the basis of all the criteria, or at least on that of the major portion of the criteria that the Government of India has to date suggested with regard to accession, Kashmir ought to accede to Pakistan if the choice was to be made by Kashmir itself. The Ruler should have acceded to Pakistan. As a matter of fact, the interest of the majority of the inhabitants of Kashmir indisputably points in that direction.

Here is a significant fact. In the Indian-occupied area of Kashmir there were roughly 2 million Muslims before this

trouble started. Of those 2 million Muslims, 600,000 to 700,000 are already refugees in Pakistan. What does that indicate? That is not an argument; it is a hard, poignant fact, and it is the strongest piece of evidence to show in which direction the inhabitants consider safety for themselves, security for themselves, and opportunities for the development of their intellect and for their progress in life, to lie.

As recently as January 1950 the following has happened. I quote from the *Civil and Military Gazette* of Lahore, dated 30 January 1950. It is a piece of news originating from Rawalpindi on 29 January, which reads:

"Apprehensive of revolt in the State forces, the Indian Army is following a steady policy of eliminating Muslim elements from the State forces in Indian-held Kashmir, said Lieutenant-Colonel Manavar Khan, the officer commanding the Pioneer Company of Jammu and Kashmir State forces which crossed over into Pakistan territory on 22 January with a contingent of 500 men composed of officers, other ranks and their families."

Then there is a long piece giving the whole history relating how it was brought about. Five hundred of them—and at as late a date as this. If those people were free to decide, is there any doubt as to which way they would decide? It is not merely a matter of which way they are going to decide, but it is a matter of where they know lie their safety, their security, their integrity, their honour, their development, and their intellectual and economic prosperity.

Well then, that should have happened and it did not happen. We do not make a claim that, on that ground, Kashmir should accede to Pakistan. But it has been agreed that the whole matter shall be settled on the basis of a free and impartial plebiscite. Well, then, let the free and impartial plebiscite take place. At the 463rd meeting the representative of India said, in effect, "Oh, it is assumed that we have agreed to a free and impartial plebiscite," and then it is said, "Oh, let us try to narrow the difference as far as we can." He says that this is

the wrong approach. He says, "I have said that this is an argument which at first sight seems good, but it is fundamentally unsound. India offered a plebiscite upon certain conditions which amount to this, that the State might be restored to its normal conditions before the plebiscite is held. India stands by that offer subject to those conditions. Pakistan, on the other hand, appears to desire a plebiscite with the State in its present disrupted and abnormal condition. The two positions are fundamentally irreconcilable."

That could have been argued here two years ago; that argument is not admissible today. Today it is a fact that the parties have solemnly agreed and accepted the resolution of 13 August and 5 January. They are international documents. The Security Council first laboured over the whole problem; the Commission laboured over the whole problem, and then that agreement was achieved on 23 and 25 December 1948, after a whole year's trouble over the matter. The question today is not of any fresh conditions, of any new conditions. The whole question is to implement the resolutions to which the two parties have agreed. Has India agreed to them or not? Do they apply to a state of affairs? If they apply to a state of affairs which can be regarded as integrated in the State, then they apply to the integrated State. And if they do apply to a state of affairs which can be described as disrupted, then let us apply them to the disrupted state of affairs.

But those are the conditions laid down there. As a matter of fact, before agreement was reached on the resolution of 5 January 1949, Pakistan had itself put forward its own view of the matter which I will read to the Council, and which would show what our attitude has been with regard to these matters. It is a letter from me to the Chairman of the Commission dated 28 November 1948, and I have already drawn attention to one paragraph of that letter. However, it is worthwhile reading it out to the Security Council because it puts in a nutshell the whole position of the Pakistan Government:

"At our meeting on 27 November 1948, you asked me to submit in writing the preliminary reactions of the Pakistan

Government to the Commission's draft plebiscite proposals of 20 November."

After certain modifications these proposals became the resolution.

- "1. As I explained to the Commission, the Pakistan Government has authorized me to explore the ground with the Commission in order to obtain a fuller outline of its plan for a free and impartial plebiscite. My Government appreciates that the draft proposals are at this stage tentative in character, and are intended to furnish a basis for discussion. It wishes, however, important principles which should find a place in any plan designed to secure a free and impartial plebiscite.
- "2. The Commission will agree that in order to achieve a free and impartial plebiscite to decide whether the State should accede to India or to Pakistan, all sections of the people of Jammu and Kashmir must be able to cast their vote without being subjected to any pressure or interference, and that neither of the two Dominions should enjoy any special advantage over the other in respect of the plebiscite.
- "3. Pressure may be exercised through the Army, the police or the civil administration. In order to eliminate or neutralize these sources of pressure, the following measures are necessary:
 - "(i) Withdrawal of all outside troops;
 - "(ii) Neutralization of the civil administration;
 - "(iii) Provision of the fullest and widest powers for the Plebiscite Administrator; and
 - "(iv) Ensuring complete freedom for legitimate political activity.
- "4. With regard to the necessity for the complete withdrawal of outside troops, it may be observed that when parts

I and II of the Commission's resolution of 13 August have been complied with, *Azad* Kashmir forces would have ceased fighting, tribesmen would have left the State, and the Pakistan Army and the bulk of Indian forces would have withdrawn from the State in accordance with an agreed programme. At the end of the truce period, by which time law and order would have been restored in the State, the only outside troops in the State would be the Indian forces retained for internal security. The Government of India has, however, pressed for the retention of Indian forces in Kashmir for purposes of defence as well as of internal security."

I have already read the rest of this paragraph so I shall omit that portion and continue:

"The mere presence of Indian troops, even if they do nothing directly to influence the people of Kashmir in the matter of the plebiscite, would constitute intimidation and is further likely to be exploited by the party interested in securing the accession of the State to India. The freedom and impartiality of the plebiscite would thus be seriously jeopardized by the presence of Indian troops in the State during the plebiscite.

"Secondly, it is essential that the civil administration should be impartial, or should be neutralized on the accession of the State to India or to Pakistan."—That is to say, on the question of accession.—"It is recognized that it would not be practicable to achieve this at all levels of the administration. What is, however, necessary is that this should be carried out at least at the ministerial level, so that, in the words of Senator Austin, the administration would command the confidence and respect of all people of the State, and would be a symbol to the people of both sides that the Government of the State was officially neutral on the issue of accession. The Security Council was convinced that this could best be realized through a coalition Government in which the major political parties shared equitably and fully. Pakistan

Government is also of the same view, but would be prepared to entertain any equally effective alternative which the Commission may wish to suggest."

At that time, of course, the alternative had not yet been suggested. The quotation continues:

"Thirdly, it is obvious that the Plebiscite Administrator should have the fullest powers to enable him to discharge his responsibility to ensure that the plebiscite is completely free and impartial. Having regard to his duties and responsibilities, the Plebiscite Administrator must be a man of international standing, in whose judgment, integrity and capacity everyone would have implicit confidence."

There are two great achievements to the credit of the Commission after it was able to obtain the agreement of the two Governments to its resolutions of 13 August 1948 and 5 January 1949. One is the implementation of the cease-fire, for which, of course, it deserves every credit, and the other is that, fortunately for everyone concerned, the Commission was able to secure, with the agreement of the parties, the appointment, in the person of Admiral Chester W. Nimitz, of a Plebiscite Administrator who fulfilled in every respect the qualities that were laid down as being essential in his case. The quotation goes on:

"It would not be possible to persuade such a man to undertake this high responsibility unless he is assured that he would have adequate powers to discharge it successfully.

"Fourthly, it is necessary to ensure complete freedom of legitimate political activity. Articles 11 to 14 of the Security Council resolution of 21 April 1948, were designed to secure this objective, and were accepted by the representatives of India and Pakistan. As explained by Senator Austin, the Plebiscite Administrator would have full authority to make these safeguards effective."

That is our position. To the extent to which this position has been modified by the two resolutions which have been

accepted, we stand by the modification. The whole trouble at the moment is that there are differences between the parties, to put it minimally, with regard to the interpretation of certain matters to which they have agreed. The Security Council at this stage is faced with the task of finding a means of resolving those differences. It can, if it so chooses, pronounce upon them itself and can recommend its decision to the two Governments, saying, "This is what you have agreed upon and we invite you or call upon you to carry it through." General McNaughton has made an attempt. Although he has not tried to interpret the provisions of the resolutions, he has attempted to put up a scheme which would overcome those difficulties and enable the parties, and all concerned, to travel to the next stage in which, after all this had been done, the plebiscite could be organized and carried through. If the Council finds that these proposals are fair—and we submit that they are eminently fair—then obviously the two Governments should be called upon to carry them out.

After all, the Security Council has to take a decision in the matter, and it must discharge its responsibility in the face of this problem, which has now continued for two and a half years, with all the apprehended consequences which have been brought repeatedly to the notice of the Security Council and to which reference has been made again in the report of General McNaughton. After all, the world looks to the United Nations, at the moment, as the only means of its salvation in the face of the grave dangers that threaten humanity. Once the peace is broken on a large scale and the conflagration begins to spread, there is no one, statesman, soldier or scientist, who can predict what the ruin and the devastation may be. Civilization might perhaps then be left to flourish in the outlying and unapproachable islands and possibly in the deserts, but it would cease to flourish in what are known today as the civilized portions of the earth. That responsibility lies very heavily on the shoulders of the Security Council as the principal organ of the United Nations charged with taking measures for the maintenance of international peace. If, after the very careful consideration that the Security Council gave to the case in 1948 and is giving to it

now, after the extensive submissions that have been made to the Council, after the deliberations among its members, the Council were to lay down or suggest or recommend—I am not concerned about the phraseology that may be employed—that, under the circumstances, it would be just and fair to do this, that and the other, and were to call upon the two Governments to take such action, the Government that refused to do so would be undertaking a very grave and serious responsibility with reference to the maintenance of world peace.

There is just one general matter to which, in the few minutes remaining before 6 o'clock, I might draw the Council's attention. In concluding, the day before yesterday, my learned and distinguished friend drew the attention of the Security Council to the fact that his Government is so keen with regard to the maintenance of peace that it has already made a proposal to the Government of Pakistan that both Governments should make a solemn declaration for the avoidance of war as a method for the settlement of any disputes between them. It was perhaps the intention of my learned friend to be understood as saying: "You see, we have no warlike intentions. If this position is not accepted by Pakistan, well, the responsibility must lie upon Pakistan."

With regard to at least some of the problems—others have since arisen—which are, to say the least, agitating the peoples of the two Dominions and dividing their Governments, the elements are now before the Security Council. The Council is fully seized of the Kashmir affair. I have already referred to the dispute with regard to our canal waters and the matter of irrigation. Members of the Council may have read in the newspapers about the dispute which has arisen between India and Pakistan over devaluation: India devalued its currency, and we decided to maintain the international exchange rate of our currency, and India apparently has a grievance because we decided to do that. The consequence is that all trade between the two countries is now at a standstill. There are other differences, for instance, with regard to evacuee property and settlement of that dispute. They are all piling up because the question of Kashmir has not been settled. It is only with the

settlement of the Kashmir problem that a movement will be made toward the settlement of the other problems.

But the Government of India says: "All right, let us make a declaration that we shall not go to war over any of these matters." India is in military occupation of the greater part of Kashmir, and it now says: "Let us decide that we shall not fight over it." All right, then what? What shall we do to settle this question? The Indian Prime Minister has said: "Well, but that issue is before the Security Council; we can leave that apart." If that statement about leaving the question apart means anything at all, it can only mean that the Security Council is dealing with the manner and will resolve it, and that the way in which the Security Council resolves the problem will be accepted. If India says that we should make a declaration that we shall not go to war over our disputes, we say in reply: "Let us settle our disputes, or let us at least agree upon the method of their settlement, so that our peoples on both sides may be assured that these disputes will be settled in a just and fair and equitable manner. Then we can make a declaration not to fight over them."

Our reply to the Indian offer was this, and I am quoting from the statement made by the Prime Minister of Pakistan in the Constituent Assembly on 18 January 1950:

"Our High Commissioner pointed out to the Indian Secretary-General that the main disputes between India and Pakistan related to Jammu and Kashmir; Junagadh and the neighbouring States which have acceded to Pakistan; the canal waters; the evacuee property; and the assets of Pakistan withheld by India.

"Regarding Kashmir he suggested that both Governments should reaffirm their desire to implement as early as possible the UNCIP resolutions by having a free and impartial plebiscite in the spring of 1950, and should agree in advance to arbitrate any differences that have arisen or may arise in implementation of these resolutions.

"Regarding Junagadh and its neighbouring States, the High Commissioner recalled that the UNCIP had been entrusted

with the task of mediation and suggested, if its efforts did not succeed, that both Governments should agree to abide by arbitration.

"Our High Commissioner suggested that in the canal water issue, which is a juridical one, both Governments should agree in advance to refer the matter to decision by the International Court of Justice.

"The settlement of the evacuee property dispute, the High Commissioner stated, depended on the settlement of the canal water dispute and should therefore be reached first. The evacuee property dispute should then be settled through negotiation and, if necessary, through mediation or, if that failed, through arbitration.

"India, the High Commissioner added, had withheld various assets, including assets of the State Bank and sterling balances due to Pakistan under the payments agreement. Here too, if negotiations failed, both Governments should agree in advance to refer the matter to arbitration.

"Our High Commissioner ended by saying that if the Indian Government accepted a solution on these lines, further negotiations could be undertaken to settle details of the procedure of mediation and arbitration and, when an agreement had been reached, a joint declaration should be made that the two Governments will in no case go to war.

"The Indian Government's reply, which, owing to an unfortunate delay in transmission, did not reach the Pakistan Government for several weeks, put forward a counter-proposal. Its draft suggested that both Governments should declare that they condemned the resort to war for settlement of any existing or future disputes, and agreed that the settlement of such disputes shall always be sought through negotiations, mediation or arbitration by a special agency set up by mutual agreement for that purpose, or by agreed reference to some appropriate international body recognized by both of them.

"The Pakistan Government has now replied, suggesting that the only way to promote peace is to resolve the major disputes, since a joint declaration will carry conviction to none unless supported by evidence of some concrete action. For this purpose it had put forward concrete and precise suggestions outlined above regarding the procedure to be followed in their settlement. These proposals have not so far been accepted by the Government of India, though the Pakistan Government has urged it to reconsider its view and to agree to binding formulas instead of mere declarations in general terms which are of doubtful value.

"There the matter stands. The Indian Government's reply is awaited. Pakistan is always ready to examine any proposals from the Government of India regarding the precise methods which we have suggested for settling the various disputes. The Pakistan Government feels strongly that even if disputes cannot themselves be settled, at least the procedure for settling them should be laid down by agreement in precise terms so that both parties enter into firm commitments which would, in the course of time, definitely lead to the settlement of these disputes."

That was our point of view. The Government of India has said that the question of Kashmir is now before the United Nations, and accordingly it should be kept apart. What does that mean? Do we bind ourselves to do what the United Nations tells us to do? That would be one way of settling this. But keeping it apart means keeping it alive, and what is the use of making these declarations while a major dispute goes on with a risk that any day the fighting may flare up again?

There really is no evidence that India is prepared to compromise over these matters to any extent at all. The latest pronouncement of the Indian Prime Minister on this question appears in *The Times* of London of 7 February 1950. Under the heading "Pandit Nehru on Kashmir" it says:

"Speaking at his usual monthly Press Conference today, the Prime Minister, Pandit Nehru, said that Government of

India proposed to continue to stand by what it considered to be right in Kashmir, and would not tolerate any pressure by foreign sources.

"Remarking that his patience was getting exhausted, Mr. Nehru referred with heat to the 'blatant and lying propaganda in the foreign Press' on the subject of Kashmir and also to the 'monstrous and scandalous propaganda of amazing falsehoods', in which, he said, the Government and Press of Pakistan were indulging. Although India had hitherto refrained from retaliation, it was common knowledge that the whole of the North West Frontier Province was a 'vast prison' and the whole of the tribal area was 'in a state of unrest'."

The Prime Minister is trying to turn that against the Pakistan Government. Mr. Nehru added: "I am convinced that every step I have taken on Kashmir is correct, and I stake my reputation on that." That is the attitude today. And yet we are invited to make a declaration not to fight over these things.

What happens then? India has already absorbed Junagadh, and has already absorbed Hyderabad, and is in military possession of the major portion of Kashmir. And now we are asked to make a declaration not to fight. Nice and sweet; it settles everything. Let us either settle the matter in advance of the declaration, or if it cannot be settled, let us at least agree upon the procedure for settlement and also for meeting any trouble that might arise during the procedure; and then let us declare that we shall not fight. That is all we plead before the Security Council with regard to Kashmir.

I apologize once more to the Security Council for having taken two whole meetings and a considerable portion of another in making these submissions. Although at times, perhaps, I may have said more than was necessary to clarify an issue, and may have spoken even in certain parts with a certain amount of vehemence, I wish to assure the Council and the representative of India, that that emphasis was intended to be neither aggressive nor unfriendly. If I might venture to strike a

personal note, those who have heard me speak on questions in Committees and in the General Assembly, are aware that I am unfortunately given to speaking with emphasis. I think it helps in clarifying issues. Perhaps I may be mistaken on this point. Nevertheless, I apologize both to the Council and to the representative of India if anything I have said should either have jarred upon anybody around the table or should have wearied anyone. Finally, I thank the President and the members of the Security Council for the supreme patience and indulgence with which they have heard me.

123. Text of the Speech made by Sir Benegal N. Rau (India) in the Security Council Meeting No. 466 held on 10 February 1950

We are here concerned with the Kashmir issue, and I therefore propose at the outset to confine myself strictly to that issue. Let us see exactly where we stand. The United Nations Commission for India and Pakistan adopted two resolutions, one on 13 August 1948 [S/1100, paragraph 75] and the other on 5 January 1949 [S/1196, paragraph 15]. These resolutions have been accepted by both sides, but difficulties have arisen with regard to the implementation of the resolution of 13 August 1948. Our task now is to consider how those difficulties can best be resolved.

In my first speech [463rd meeting] I indicated that all our present difficulties have arisen because of the invasion of Kashmir, by which I mean the State of Jammu and Kashmir, by Pakistan troops and their unlawful activities in the State in the way of building up disruptive forces and administrations. I have listened to the representative of Pakistan patiently and with the utmost attention, but I have been unable to see how he justifies the invasion of the State or the subsequent activities of the Pakistan Army. He read out to us [464th meeting] an appraisal of the Kashmir situation by General Gracey, Commander-in-Chief of the Pakistan Army, dated 20 April 1948. The representative of Pakistan stated that it was upon the recommendations of the Commander-in-Chief that Pakistan

felt it necessary to send its army into Kashmir. Let us briefly consider what those recommendations were. I shall first quote from the Commander-in-Chief's summary of deductions, paragraph (f):

"An easy victory of the Indian Army in any of the above-mentioned sectors, particularly in the Muzaffarabad area, is almost certain to arouse the anger of the tribesmen against Pakistan for its failure to render them more direct assistance, and might well cause them to turn against Pakistan."

I invite special attention to the words "more direct assistance". This is a most damaging admission, proving that, in spite of the protestations of the representative of Pakistan here, Pakistan was in fact rendering the tribesmen, even before 20 April 1948, some kind of assistance, direct or indirect. The Commander-in-Chief was recommending that the assistance should take a more direct form. This is conclusive proof that India's complaint to the Security Council in January 1948. [S/628] was completely true.

The representative of Pakistan twitted me upon my use of the quaint phrase that the complaint had "become true". In view of the proof which he has now himself furnished, I am able to dispense with that quaint phrase and say that "the complaint has been proved to be true".

I now come to that part of the Commander-in-Chief's appraisal which recommended that regular units of the Pakistan Army must, if necessary, be sent into Kashmir. I must confess that I have been gravely disturbed by this enclosure. Here is a British Commander-in-Chief of a Dominion of the Commonwealth recommending that a military expedition should be sent, if necessary, against the army of a sister Dominion. I should like at this stage to ask the representative of Pakistan two questions. The first is: Before the Pakistan Army was actually sent into Kashmir, was His Majesty's Government in the United Kingdom consulted or even informed? I ask this question because I believe that the recommendation involved a serious offence against the British Foreign Enlistment Act. I

do not know whether the representative of Pakistan would like to answer this question immediately or at a later stage.

Representatives will doubtless remember the Jameson Raid in South Africa, where the expedition was against the South African Republic. The case is stronger here because the expedition was against a sister Dominion and member of the Commonwealth. It seems almost incredible to me that a step of this kind should have been taken without consulting His Majesty's Government. Indeed, I feel sure that if there had been any such consultation, this step would never have been taken and we should have been spared all the difficulties that it has created and that now impede our progress.

The second question which I should like to ask him is whether, at any point of his appraisal, the Pakistan Commander-in-Chief cautioned the Pakistan Government that the step which he was recommending, however justifiable in his view, might constitute a breach of international law. I feel that, in order to protect himself, he would have taken this precaution, having regard to his conduct on an earlier occasion which I shall mention immediately. I quote from a dispatch sent by Douglas Brown from Pakistan on Tuesday, 28 October 1947, which appeared in the *Daily Telegraph* of London on 29 October 1947:

"Mr. Jinnah commanded General Gracey to reply to the Indian Government's move into Kashmir by sending troops immediately up the Murree Road to recapture Baramulla, occupy Srinagar and hold its airfield and cut off the Banihal Pass into India.

"General Gracey replied that news had just reached him that Kashmir had joined the Indian Union, so that to send troops there would be an act of war against Hindustan. He begged that the matter be referred first to Field-Marshal Auchinleck. To this Mr. Jinnah with some reluctance agreed.

"Such was the reason of the conference held today around the sick-bed of the Pakistan Prime Minister, Mr. Liaquat Ali Khan, for which Field Marshal Auchinleck from Delhi,

General Gracey from Rawalpindi and Sir George Cunningham, Governor of the North West Frontier Province from Peshawar, all set out by air at dawn.

"I am told that the first point made by the Supreme Commander at the conference was that if the armies of the two Dominions came to blows, all British officers on both sides would immediately resign. This would include the respective Commanders-in-Chief of India and Pakistan, Lieutenant-General Sir Rob Lockhart and Lieutenant-General Sir Frank Messervy. General Messervy is expected to return immediately from England, arriving on Thursday."

Whatever the answers to these questions may be, one thing is clear: that the justification pleaded by Pakistan is that the sending of the troops was necessitated by considerations of self-defence. Such a plea might have passed muster in the old days, but now, fortunately, we have the United Nations and its Charter.

Article 51 of the Charter reads:

"Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council, and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."

This Article imposes two limitations upon the right of self-defence: first, there must be an armed attack upon the Member that exercises the right; and secondly, measures taken in the exercise of the right of self-defence must immediately be reported to the Security Council. In the present instance there was no armed attack on Pakistan, and admittedly the sending of the army into Kashmir was not reported to the Security Council.

I am not making a small legal point. I am pointing this out because, if the matter had been reported at that stage to the Security Council, we should not have been in the difficult position in which we find ourselves today. I feel sure that the Pakistan Army would not have been allowed to go in, and the subsequent mischief to which the invasion led would have been avoided. I have contended in my original speech [463rd meeting] that because of this initial wrong, certain other wrongs followed, namely, the building up of the so-called *Azad* forces and the so-called *Azad* administrations. I then asked, as I still ask, that all these wrongs should be completely undone before a plebiscite can be held. Any other course would involve the recognition of an act which was not only against the plain provisions of the Charter but was also, as I see it, a crime according to British municipal law. We should be creating a dangerous precedent if we took any other view or adopted any other course.

It is said that the dispatch of Pakistan troops was necessitated by India's mounting an offensive against the raiders. But surely this was nothing new. The Security Council knew that the Indian Army had gone to Kashmir to repel the invaders, but it is curious to learn that, although Pakistan, according to its defence before this Council, was rendering no assistance whatever to the raiders, nevertheless when it found that India was on the point of expelling the raiders, Pakistan found it necessary to send its army into Kashmir in order to hold the line. But we are told that Pakistan did not do anything more, whereas we have it, both from the majority [S/1430] and from the minority [S/1430/Add. 3] reports of the Commission, that Pakistan not merely held the line but extended its military control over the northern areas between August 1948 and January 1949. This was not a case of merely holding the line, but of occupying as large a part of the State as Pakistan's military strength permitted.

I shall now proceed to deal with two other points raised by the representative of Pakistan in connexion with the implementation of the resolution of 13 August. His first point was that the disbanding and disarming of the *Azad* forces belonged to

what is called the plebiscite period, which is to commence after the implementation of parts I and II of the resolution. The real point, so far as India is concerned, is not whether the disbanding and disarming of these forces should fall in this period or that period, but whether it should not take place before the bulk of the Indian Army is withdrawn from the State. Our view has consistently been that these forces should be disbanded and disarmed before India is called upon to withdraw the bulk of its army. The Commission itself has said that if it could have foreseen that Pakistan would build up so formidable a force as the *Azad* forces have now become, it would have dealt with the question in part II of the resolution. Therefore, if we follow the spirit of the resolution—that is to say, what the Commission really would have done if it could have foreseen the facts—the disbanding and disarming of the *Azad* forces should be put on the same footing as the withdrawal of the Pakistan Army, of which these forces are merely a limb or adjunct. To this the representative of Pakistan answers that the *Azad* forces are not mentioned in the resolution of 13 August. In the words of a famous precedent, the representative of Pakistan's objection is, "It is not so nominated in the bond." If so, if the representative of Pakistan wishes to stand upon the letter of the resolution of 13 August, let us go by the letter. The wording of part II, section B, paragraph 1 of the resolution is to the effect that when the Pakistan forces are notified as being withdrawn, the Government of India agrees to begin to withdraw the bulk of its forces from the State in stages to be agreed upon with the Commission.

In other words, what India is required to do by the letter of the resolution is to begin to withdraw the bulk of its forces, but the withdrawal need not be completed. Indeed, the stages of the withdrawal are left to be determined by agreement between the Commission and the Government of India. Only the initial stages constitute the beginning, and that is all for which the strict words of the resolution provide. India's view is that it cannot afford to complete the withdrawal of the bulk of its forces until the *Azad* Kashmir forces have been disbanded and disarmed. The real question, as I have already pointed out, is

which is to come first: the disbanding and disarming of the *Azad* Kashmir forces or the withdrawal of the bulk of the Indian Army. We say the former, and the Commission supports this contention when it says that if it had been able to foresee what Pakistan was going to do, it would have made express provision for the disbanding and disarming of these forces in the resolution of 13 August.

I now come to the point regarding the northern areas. So far as concerns the territory evacuated by Pakistan troops in the south, part II, section A, paragraph 3 of the resolution of 13 August provides that the territory shall be administered by the local authorities under the surveillance of the Commission, this, of course, subject to the assurance given to India by the Commission that this part of the resolution will not be interpreted or applied in practice so as to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of its territory evacuated by the Pakistan troops.

Let me draw attention to the words "or applied in practice". The meaning is obviously that neither in theory nor in practice was the sovereignty of the State to be questioned in that territory. If the contention of the representative of Pakistan is that the territory referred to includes the northern areas as well as the southern areas, then the assurance will apply to both. But if, as held by the Commission, the reference was only to the territory to the south-west and did not include the northern areas, then there was a separate assurance in respect of the northern areas given in the Commission's reply of 25 August [S/1100, paragraph 79] to the second letter of the Prime Minister of India of 20 August [S/1100, paragraph 78] to which I have already referred in my speech.

Therefore, on whatever interpretation, an assurance of the unquestioned sovereignty of the Jammu and Kashmir State was given to India; and, in our view, that assurance was repeated in sub-paragraph 3 (b) of the resolution of 5 January 1949. I have quoted that particular sub-paragraph once before, but I shall quote it again because we attach great importance to it. The sub-paragraph, as I have already said, was inserted at India's instance. It runs as follows:

"The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite."

My learned friend, the representative of Pakistan, twitted me at one point of his speech with claiming credit for India for accepting the proposals contained in this resolution on 23 December [S/1196, annex 4] whereas Pakistan accepted them two days later [S/1196, annex 5]. What I was commenting upon in that part of my speech was the delay in Pakistan's acceptance of the resolution of 13 August. But, apart from that, the difference of two days between 23 December and 25 December is of very great significance, as I shall presently explain. India asked for the insertion of sub-paragraph 3 (b) in the resolution of 5 January 1949 because it attached the greatest importance to the unquestioned sovereignty of the State throughout its territory, and the words of the sub-paragraph necessarily implied that the powers of the State, whether in the northern areas or in the southern areas or anywhere else, would remain with the State before the holding of a plebiscite. However, my distinguished friend stated yesterday [465th meeting] that in a memorandum of 25 December the Chairman of the United Nations Commission for India and Pakistan gave him an explanation of the sub-paragraph which stated that it meant practically nothing, that it was a mere formality, and so on. If any such explanation was given to the Pakistan Government on 25 December, that is to say, two days after the proposals had been accepted by the Government of India, clearly that explanation is not binding upon the Government of India.

The holding of the plebiscite for the entire State and the unquestioned sovereignty of the State over its entire territory are inseparably connected. The southern areas may be administered, under the surveillance of the United Nations, by local authorities appointed from among the local inhabitants by the Government of the State of Jammu and Kashmir. This would be in accordance with the resolution of 13 August, as interpreted to India. I may mention that Sheikh Abdullah's

Government at present includes a member of the rival organization, the Muslim Conference.

I shall now proceed to deal with some of the specific points raised by the representative of Pakistan. He covered a great deal of ground, and I do not propose to follow him into every detail; I shall confine myself to the more salient points in his argument. He opened with a longish discourse on Junagadh, Hyderabad and various other matters. We are at present concerned only with the Kashmir issue. I do not know what the other members of the Council feel, but, speaking for myself, I have found it difficult enough to master the facts of the Kashmir issue. If we are to be asked at the same time to go into all the other matters which are alleged to be in dispute between India and Pakistan, the burden will be intolerable. I shall therefore make only a few general observations on these issues, although to my mind they are, strictly speaking, irrelevant to the present discussion.

One thing has emerged clearly even from the extracts which my distinguished friend has quoted from various statements made by the Prime Minister and the Deputy Prime Minister of India, which is that in every disputed case there should be a reference to the will of the people. That is the criterion which, subject to certain conditions as to the restoration of normal conditions, India has offered to apply in Kashmir. There is, however, one fundamental difference between the cases of Hyderabad and Junagadh, on the one hand, and Kashmir, on the other. In Kashmir, as I have already stated in my original speech, a large section of the Muslims—that is to say, a large section of the majority community—are themselves in favour of remaining in India. This is not India's fault; it is a plain fact, for which I have already tried to give several reasons. In Hyderabad and Junagadh, on the other hand, so far as I am aware, no section of the population that forms the majority has ever been in favour of acceding to Pakistan. This is a fundamental difference which is apt to be forgotten in these facile analogies.

My distinguished friend has often referred to the "so-called accession" of Kashmir to India, as if there were some legal

defect therein. Members will find this aspect of the case fully discussed in annex 43 to the majority report of the Commission [S/1430/Add. 1]. I do not wish to weary the members of the Council with a long legal disquisition on the subject of accession. I would only mention that, under the Constitution which was in force in India after 15 August 1947 and until 26 January 1950, specific provision had been made as to the exact mode of accession of Indian States. In passing, I may observe that that Constitution was practically an enactment of the British Parliament. Under section 6 of that Constitution, often referred to as the Government of India Act, 1935, an Indian State shall be deemed to have acceded to the Dominion if the Governor-General has signified his acceptance of an instrument of accession executed by the Ruler, etc. The rest of the section merely deals with the contents of the instrument. This is all that was required for accession: an instrument executed by the Ruler and accepted by the Governor-General.

On 26 October 1947, the Ruler actually executed such an instrument of accession; and, on 27 October 1947, the Governor-General, Lord Mountbatten, signified his acceptance of that instrument. Constitutionally, therefore, all the requirements of accession were complete. In accepting the instrument, Lord Mountbatten said to the Ruler:

"Consistently with its policy that, in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government's wish that, as soon as law and order have been restored in Kashmir and its soil cleared of the invader, the question of the State's accession should be settled by a reference to the people.

"Meanwhile, in response to Your Highness's appeal for military aid, action has been taken today to send troops of the Indian Army to Kashmir to help your own sources to defend your territory, and to protect the lives, property and honour of your people. My Government and I note with satisfaction that Your Highness has devoted to invite Sheikh

Abdullah to form an interim Government to work with your Prime Minister."

As I have repeatedly said, India still stands by the offer contained in that letter, to submit the question to the will of the people as soon as normal conditions are restored. But this does not in any way affect the position that for the time being, accession is legally and constitutionally complete.

Sir Mohammad Zafrulla Khan devoted a good deal of his speech towards proving why it was essential, from Pakistan's point of view, that Kashmir must accede to Pakistan. Let me quote his exact words [464th meeting]: "The possession of Kashmir can add nothing to the economy of India or to the strategic security of India. On the other hand, it is vital for Pakistan." That is to say, the possession of Kashmir is vital for Pakistan. Sir Mohammad Zafrulla Khan is apparently no longer content with accession; he desires possession. At this point of his argument he seems to have forgotten that the matter is to be decided not by the comparative needs of Pakistan and of India, but by the wishes of the people of Kashmir. Indeed, as I heard him developing this part of his argument, I began to understand more and more clearly why a large section of the Kashmir Muslims are nervous of acceding to Pakistan. If I may say so without any offence, the wolf may need the lamb desperately, but the lamb may have different wishes in the matter. It is because India has no need to exploit Kashmir and can give it the fullest political and economic freedom that a large section even of the Muslims to Kashmir wish to remain in India. This part of his argument sounded very much like the *Lebensraum* doctrine.

The representative of Pakistan joined issue with me over my statement that the bulk of the trade of Kashmir was in the areas now included in India. I shall therefore give the exact figures of the three years immediately preceding partition. These figures were compiled from official records for the information of the United Nations Commission for India and Pakistan. In the year 1944-1945 Kashmir imported 46 million rupees worth of goods from the areas now included in India and 12 million rupees worth of goods from the areas now included in Pakistan;

in percentages, 79 per cent from India and 21 per cent from Pakistan. In 1945-1946, 47 million rupees worth of goods were imported from India and 9 million rupees worth from Pakistan; in percentages, 84 per cent from India and 16 per cent from Pakistan. In 1946-1947, 59 million rupees worth of goods were imported from India and 12 million rupees worth from Pakistan; in percentages, 82 per cent and 18 per cent respectively. The figures for exports from Kashmir during the same years were 80 per cent to India and 20 per cent to Pakistan in each of the three years.

With reference to timber, on which Sir Mohammad Zafrulla Khan dwelt at some length, the official records show that eleven-eighteenths of the timber exports, including fir logs, were for consumption in India, and seven-eighteenths for consumption in Pakistan. It must, of course, be admitted that during the years in question India was a single country, an undivided country, and the figures I have quoted are to some extent based upon the best estimate that could be made of the proportions of certain goods consumed in the areas now included in India and in Pakistan, respectively. To that extent the figures are a matter of opinion. I shall concede that. The main consumer of Kashmir timber was and continues to be the Indian railways.

The representative of Pakistan repeatedly referred to the stoppage of water from certain irrigation canals. I shall therefore mention a few salient facts. Previous to the partition of India there were sixteen canal systems in the undivided Punjab. As a result of partition, twelve of these systems have fallen exclusively into West Punjab, that is, into Pakistan. Only three are in East Punjab, which is in India. One, the Bari-Doab Canal, is divided between the two. The total discharges of the five rivers of the Punjab in the winter season is 47,500 cusecs, of which West Punjab and Bahawalpur in Pakistan get 39,500 cusecs, and East Punjab, with its States, only about 8,000 cusecs. In other words, five-sixths of the supply has been given to Pakistan and about one-sixth to India. West Punjab is a highly developed surplus food area, whereas East Punjab is under-developed and a deficit food area liable to severe and frequent famine.

In December 1947 a standstill agreement was signed by the Chief Engineers of the East and West Punjab for the continuance of the supply to Pakistan canals from head waters in India, subject, of course, to payment. This standstill agreement was to last only up to 31 March 1948, but in spite of reminders from the East Punjab Engineers, Pakistan took no step to enter into a fresh agreement before the existing one expired. In the absence of any such agreement, East Punjab had to close the canals on 1 April 1948. About the middle of that month the Chief Engineers of the two provinces, with the authority of their respective Governments, signed an agreement under which the supplies were to be continued for a limited period. This agreement was, however, not ratified by the Government of West Punjab, Pakistan, with the result that the flow of water in the canals could not be resumed and there might have been severe loss of crops. At this stage—and I invite special attention to this point—the Prime Minister of India intervened personally, and as a result of his efforts an agreement was executed between the two Governments on 4 May 1948, according to which the supplies to these canals were resumed.

Members of the Council will remember that among the reasons given for the marching of the Pakistan Army into Kashmir, one was that Pakistan feared that India would stop the water from the Mangla Head Works. The representative of Pakistan might at least have mentioned that, two days earlier, as a result of the Prime Minister of India's personal intervention, India had resumed the supplies which, owing to the continued negligence of the Pakistan Government of West Punjab, had been suspended.

The representative of Pakistan repeatedly charged me with having said that there was no trouble within the State before 22 October 1947. He made a partial correction of that error yesterday, but I should like to correct it completely, so far as I am concerned. His exact words were [464th meeting]: "The representative of India yesterday said that he denied the assertion by Pakistan that anything had happened before 22 October." I have been unable to find any such statement in my speech. What in fact I did say was that the trouble in the State

had caused the Maharaja's accession on 26 October, and not that the Maharaja's accession had caused the trouble as is often represented or misrepresented. In other words, what I said was that the trouble occurred before 26 October. I did not say that there was no trouble before 22 October.

The representative of Pakistan has tried to make out that the trouble was a battle for freedom in which tribesmen from across the border joined as volunteers. In this connexion, I should like to invite the attention of the members of this Council to certain remarkable disclosures made in the Press in this country in February 1948. The writer was an American ex-G.I. who was for some months a Brigadier-General in what was called the *Azad* Kashmir International Brigade. I have photostatic copies here of what he wrote, and these photostatic copies are here for anyone to look at. I shall quote only a few extracts. Speaking of himself, he says: "I never cared about the issues involved. For me it was a job and excitement." Speaking of the circumstances and terms of his employment, he goes on to say:

"And so I was introduced to Sardar Mohammed Ibrahim Khan, President of the *Azad* Kashmir Provisional Government. He gestured my two companions away and motioned me to a seat on the bed beside him. Bluntly, he asked, 'Why do you want to join *Azad*?' I said frankly that I had come out of curiosity more than anything else. Then Ibrahim launched into a long explanation of the Muslim revolt against India and Kashmir. He justified his cause with the same arguments he is using today before the United Nations at Lake Success."

Incidentally, I am quoting from an account bearing the date of 12 February 1948. To resume:

"I did not get particularly excited, although he did. I was more interested when he asked me what I wanted for serving *Azad*. Behind me someone suggested 1,000 dollars a month. 'You can have anything you want,' said Ibrahim."

Speaking of the tribesmen he was commanding, the Brigadier-General says:

"But there were always more tribes leaving the barren hills for raids on the fertile valleys. Although they were Muslims themselves, they did not care about the issues of the Kashmir Muslim revolt against India. They wanted excitement and loot. When the Indian Government charged that we encouraged the savage tribesmen in wanton looting and raping, our publicity men countered with the statement that the Pathans were volunteers for our cause, fighting in a special international brigade. The fact that the brigade was headed by me, an American, lent colour to this story. Now, 8,000 Pathans had come down from Dir State in Pakistan's north-west province to get their share of booty. We rushed them to the front as fast as we could get trucks. The Pakistan Government co-operated gladly, lending us trucks and gas. This was done, I think, because they wanted to get the Pathans out of Rawalpindi before they started to loot there. I returned to the front ten days later to take over my international brigade."

Such was the nature of the "battle for freedom" in which the tribesmen are said to have taken so prominent and honourable a part. Let me add, for the information of members of the Council, that the fight for freedom in Kashmir started not in October 1947, or even in September 1947, but twenty years ago, and it has been continually waged during this period by the man who is now heading the People's Government, Sheikh Abdullah. As I have already said, he has suffered imprisonment nine years in the people's cause.

At the head of the Indian Government is another man who has spent nearly thirteen years in prison in the fight for freedom, and one of his last acts before he became the Prime Minister of India was to participate in the struggle that was going on in Kashmir. That battle has now ended in complete success for the people because autocracy is now dead in Kashmir, as it is dead in the other States of India.

The representative of Pakistan referred to the large number of refugees that had come over into Pakistan from the Indian side of the cease-fire line, and he pointed to this fact as proof of aggression, tyranny and what-not by India. It is unfortunately true that there has been a stream of refugees across the frontier on both sides, whether in Kashmir or elsewhere. This is not a feature peculiar to Kashmir. It was the result of the partition and the communal frenzy that unfortunately accompanied it. There are large numbers of Hindu refugees and even Muslim refugees who have come over to the Indian side of the cease-fire line in Kashmir because they felt unsafe on the other side, and their number also runs into hundreds of thousands.

The resolution of 5 January makes provision for the repatriation of all these refugees on either side, and indeed this will be one of the most difficult tasks to be completed before the holding of the plebiscite. I have already drawn the attention of the members of the Security Council to the fact that, even as late as August 1949 in the presence of certain United Nations observers, the Muslim inhabitants of certain villages which were on the Pakistan side of the cease-fire line insisted on moving across to the Indian side. As the representative of Pakistan said, "Facts are worth more than arguments," and here are facts which can be confirmed by the United Nations observer, Lieutenant Wayne. I can furnish the fullest details of these happenings if they are required for purposes of verification. They are contained in a report made by the Administrative Officer of Gurais. According to the representative of Pakistan himself, two-thirds of the population of the entire State is still on the Indian side of the cease-fire line and, needless to say, the vast majority of that population consists of Muslims.

I now come to the extract which I quoted from Margaret Bourke-White's book. The representative of Pakistan seems to be doubtful of the facts mentioned in the extracts, and he asked me, "Where was the Constitution referred to in the first sentence of that extract?" I have it here in my hand. It is entitled *New Kashmir*, and is described as a draft constitution and outline economic plan for the State of Jammu and Kashmir. It opens with the words:

"We the people of Jammu and Kashmir, Ladakh and the frontier regions including Poonch and Chinani, comprising whole of Jammu and Kashmir State, in order to perfect our union in the fullest equality and self-determination, to raise ourselves and our children...do propose and propound the following constitution of our State."

Article 2 of part I of that draft constitution reads: "Freedom of conscience and of worship shall be guaranteed for all citizens."

As to the facts actually stated in the extract from Margaret Bourke-White's book, there can hardly be any doubt, because they are corroborated by the account of another eye-witness, Father Shanks. When I made my original speech, I did not wish to read out the details given by Father Shanks, because they do not make pleasant reading. Since the representative of Pakistan is not content with what I have already stated, however, I am compelled to read out the further details now for the information of the Council. The account was reproduced in the *Daily Express* of London, dated 11 November 1947. He describes the attack on St. Joseph's Convent in the following words:

"The tribesmen came shooting their way down from the hills on both sides of the town. They climbed over the hospital walls from all sides. The first group burst into a ward, firing at the patients. A twenty-year-old Indian nurse tried to protect a Muslim patient whose baby had just been born. She was shot dead first; the patient was next. Mother Superior Aldetrude rushed into the ward, knelt over the Indian nurse and was at once attacked and robbed. Assistant Mother Teresalina saw a tribesman point a rifle at Mother Aldetrude and jumped in front of her. A bullet went through Teresalina's heart.

"At that moment, Colonel Dykes, who had assured us we would not be attacked, raced from his room a few yards along the terrace to get the Mother Superior out of danger, shouting at the tribesmen as he ran. But the Mother

Superior fell, shot, and Colonel Dykes collapsed beside her with a bullet in his stomach. Mrs. Dykes ran from her husband's room to help him. She, too, was shot dead" and so on and so on; I shall not read out the full details.

While the representative of Pakistan seems to doubt the veracity of Margaret Bourke-White, he seems to accept without reservation the statements made by Mr. M.N. Roy, whom he now describes as a "non-Muslim patriotic political leader of India". This particular gentleman has been a patriot in many countries—to mention them in order: Russia, China, now India, and tomorrow, in view of the admiration he appears to have evoked, perhaps Pakistan.

Whenever there is a hitch or delay with respect to the Kashmir problem, there is a tendency to blame India and to intransigence. Let me give a rough analogy, though not an exact parallel. Suppose I am a trustee of a certain house which my neighbour covets and upon the assurances of a house agent, I offer to sell it for the benefit of the trust for 10,000 dollars. My neighbour is good enough to be prepared to take it, but as a free gift. Accordingly, he sends his men to take possession. I go to court and complain of trespass. The Court then says to me: "You have agreed to part with the house. Your neighbour has agreed to take it. Therefore, so much is agreed upon: the house is to change hands. Now, let me try to reduce the area of disagreement. You want 10,000 dollars. Your neighbour wants to pay nothing. Let us split the difference and make it 5,000 dollars." I naturally reject these terms. Thereupon, the Court says to me: "You are very unreasonable. Let me make you another offer. Let there be arbitration as to the price." Once again, I say: "No, I was assured of getting 10,000 dollars: there is nothing for arbitration." The Court then makes me an offer of 3,000 dollars, to which, of course, I reply: "I have already refused an offer of 5,000 dollars. How do you expect me to take 3,000 dollars?" Whereupon, I am told that I am intransigent for having refused three successive offers.

In reality, there is no intransigence at all. India's position has been consistent throughout, except that, for the sake of

peace, it has made certain concessions which, unfortunately, have not brought peace.

In conclusion, I should like to quote what the Prime Minister said about the Kashmir issue at a Press conference in Delhi soon after his return to India. He was asked what statements he had made on this subject, and his reply was:

"What I said was that the Kashmir issue, or any such issue, would be resolved in three ways. The first was one of war, whatever the result; the other was continuation of the stalemate as it is now; and the third was some kind of settlement by mediation, if it could be brought about directly.

"I definitely said that resolution of an issue of this kind by arbitration was not possible. Mediation means other people helping the parties themselves in coming to a settlement. There cannot be any compulsion about mediation.

"And I said further that we wanted to do everything to increase the prestige of the United Nations by its being associated with that mediation as it had been in the past."

Then, referring to the activities of the United Nations Commission for India and Pakistan, the Prime Minister replied:

"I am not prepared to say that there have been no results at all. There have been many results: One major result which we aimed at when we went to the United Nations was to prevent the spreading of this conflict, which is a very big thing. We did succeed in that, but, as I said, if you rule out mediation, then the only two things remaining are either continuation of the present deadlock or war. So far as we are concerned, and I have said this repeatedly, we want to rule out war or resumption of hostilities for the settlement of this, or any dispute. In fact, at least on half a dozen occasions, I precisely put forward this proposal: that, whatever way might be found of resolving the Kashmir dispute, war should be ruled out. I have put it to Pakistan, and I have put this publicly in other ways. If we rule it out, that fact alone reduces a great deal of tension, psychological

and other, and one proceeds to consider the matter in a different context.

"Maybe it is a difficult question, in the sense that passions have been roused. I am not going into the merits at this movement. It takes time. Maybe one has to go step by step."

Asked about the next step to solve the deadlock, the Prime Minister said that, whatever may be the next step, it should be under the auspices of the United Nations; what form it should take, could be considered later.

I have tried to deal with the more important parts of the speech of the representative of Pakistan, but it must not be assumed that, because I have not had time to deal with every detail, anything that I have not controverted is admitted. I should like to comment upon these other matters, if I think necessary, at a subsequent stage.

124. Text of the Speech made by Sir Mohammad Zafrulla Khan (Pakistan) in the Security-Council Meeting No. 466 held on 10 February 1950

Today's statement of the representative of India to the Security Council does not call for a lengthy reply, but inasmuch as it is charged with a great deal of skill that he undoubtedly possesses, clarification of some of the points is necessary.

My learned friend's main point is that it is the presence of Pakistan forces in the State which has become the main obstacle in the way of a settlement. I was happy to note, however, that his very opening sentences are in full accord with the situation as we view it. He stated that the two sides are agreed upon the resolutions of 13 August 1948 and 5 January 1949, and the task before the Council is to settle the procedure according to which they can be implemented. As I have said, I am happy that, at least to that extent, as regards principle the two sides are agreed.

With regard to the point of the presence of Pakistan forces in the State, though I shall comment presently upon the arguments made by him, the fact is, as it is now quite clear to the

Security Council, that the entry of those forces took place early in May 1948. The very first of the two resolutions subsequently accepted by both Governments, that is to say the resolution of August 1948, was framed and presented to the parties more than three months after the entry of the Pakistan forces into the State, and several weeks after full details with regard to such entry had been supplied to the Commission. By the time the parties agreed to accept the two resolutions, everyone was fully aware of the situation, including the situation, whatever it might have been, created by the entry of these forces into the State. The resolutions deal with that matter. Part II of the resolution of 13 August begins by dealing with that situation. It is not a situation which was created after the two Governments accepted the two resolutions. Whatever the rights or wrongs of it may be, it is a situation that was already in existence and was known to the Commission in every detail before it proceeded even to formulate its earliest proposals specifically dealing with the matter. The Commission mentions that situation and then proceeds to deal with it. The resolutions were then accepted by the two Governments.

Surely that situation cannot today be put forward as something that obstructs the further progress of the implementation of those resolutions. That is reversing the chronology altogether.

My learned friend then entered into the question of the justification or non-justification of the step taken by the Pakistan Government in this respect. Again, the main reply to that contention is that all of that must have been discussed with the Commission, and was certainly taken into account by the Commission before it made its proposals. To bring up that matter today is to go back to a period anterior even to the presentation by the Commission of its first resolution. It is an attempt to throw aside the agreement with which the submission of the representative of India to the Security Council started today. He said that we have agreed upon those two resolutions, and that the task before the Security Council is to find the means to lay down the procedure for their implementation. Those resolutions, as I have said, deal with the whole situation and take note of it in every respect.

The representative of India then put two specific questions, stating that that was an action against a sister Dominion. Why was it an action against a sister Dominion? His contention is that it was so because the Ruler had offered accession to India and India had accepted that accession.

My reply to my learned friend is that Junagadh had offered accession to Pakistan on 15 September 1947, which was accepted. India marched its forces into the State of Junagadh on 9 November 1947. Was that or was that not aggression against a sister Dominion? According to the representative of India, by virtue of its accession Junagadh had become part of Pakistan. That being so, the marching of Indian forces into Junagadh on 9 November 1947 either was or was not an aggression against a sister Dominion. If it was an aggression against a sister Dominion, then the marching of Pakistan forces early in May of 1948 into a portion of another State which had gone through the form of accession, no doubt, with India, but where a freedom movement had already started, and those forces confining themselves to the area already liberated, was much less of an aggression than India's aggression against Pakistan in the preceding November, six months before. If the marching of India's troops on 9 November 1947 into the State of Junagadh, which was in accession to Pakistan, was not an aggression according to my learned friend, then how is it that the marching of Pakistan forces into the liberated areas of Kashmir six months later was an aggression?

If the reply is that aggression was committed by India, then it is not for India now, six months later, to raise the complaint of aggression against Pakistan. And if India was not guilty of aggression, how can it charge us with aggression? If it was not aggression in either case, then the questions posed by the representative of India do not arise. If it was aggression in India's case, I shall answer Sir Benegal N. Rau's two questions if he will be pleased to answer my question. Before India marched its troops into Junagadh, was His Majesty's Government consulted or informed? In the words of my learned friend, India was "committing aggression against a sister

Dominion." I wish to ask whether or not its Commander-in-Chief, when sanctioning this movement, cautioned its Government that by moving these troops into Junagadh it would be guilty of aggression against a sister Dominion? When these questions are answered by my learned friend, I shall attempt to answer his questions.

Then the representative of India read out Douglas Brown's dispatch about certain things of which even I am unaware up to this day. I am unaware what exactly took place because I have not studied that problem and I was not then in the Government. But is he prepared to accept the account of a newspaper correspondent with regard to confidential consultations which took place between different organs of the Government? Does he know to what extent they are true or whether they are false or garbled? And if so, would he be prepared to answer similar questions put by me to him with regard to Kashmir? The truth of the matter is that these matters are irrelevant today, apart from the question of the rights or wrongs of it. There is no wrong committed by Pakistan whatsoever in this respect, because apart from all other justifications, India had itself furnished the fullest justification by interpreting these matters in regard to Junagadh in the way which I have described to the Council.

Again, the representative of India said that if Pakistan had taken the precaution of informing His Majesty's Government before taking this action or if Pakistan had taken the precaution of informing the Security Council, the subsequent mischief that has arisen would have been avoided. What is the mischief that has arisen? The mischief that has arisen is that the line between the two fighting sides in Kashmir is now less favourable to *Azad Kashmir*, in spite of the entry of Pakistan troops, than it was before Pakistan troops entered Kashmir. That is all that has happened in the actual situation. And the mischief would not have arisen—but that is a euphemistic expression; the representative of India obviously means that India would then have been in complete possession of the whole of the State of Jammu in the military sense, and could then have disposed of it in whatever way it chose, as it disposed of Junagadh and

Hyderabad. That is all that would have happened, apart from the danger to Pakistan itself so far as Kashmir is concerned.

The representative of India has said that Pakistan extended its military control over the northern areas. I dealt with this matter in detail yesterday and I stated categorically to the Security Council that on 20 August 1948, when the Prime Minister of India first raised this matter with the Commission, the Maharaja's administrative authority did not extend to one inch of those territories which are now in dispute. The Indian military forces have at no time been in control of any part of those areas, but certainly on 20 August 1948 they were not in control of a single inch of the territory. If that was so, how is it alleged today that it was after that date that the Pakistan forces or the *Azad* Kashmir forces had somehow consolidated their positions? That statement of mine is not controverted, and nothing else is alleged in answer to it, yet the theory is being developed that the Pakistan forces consolidated their control over the northern areas because somehow the Commission has fallen into the error of assuming that that had happened. As a matter of fact I said that after that date the Indian military forces, as a result of their November offensive, had taken possession of the Zojila Pass, of Dras and Kargil and had been able to relieve them. All those towns, and the whole of that line, is now on their side of the cease-fire line.

Discussing the *Azad* Kashmir forces, the representative of India said that his Government's view had consistently been that the *Azad* Kashmir forces should be disbanded before the bulk of the Indian Army was withdrawn. He said that he was not concerned whether that happened in the second stage or in the third stage, but that the Indian view had consistently been that they must be disbanded before the bulk of the Indian Army was withdrawn. The actual fact is that the withdrawal of the bulk of the Indian Army was provided for in the second part of the resolution of 13 August. The Commission clearly explained that the whole of the resolution of 13 August did not touch the *Azad* Kashmir forces, the disbandment of which—an arrangement to which the Government of India agreed—is provided for in sub-paragraph 4 (b) of the resolution of 5 January 1949. Sub-paragraph 4 (a) of that resolution deals

with the final disposal of the remaining Indian forces after the bulk had been withdrawn in the truce stage and after the disbandment and disarmament of *Azad* Kashmir forces. That is what India had agreed to. The plain answer to the Indian contention that this has been its consistent position is that all the Security Council need do is to read the two resolutions which India accepted, and which we accepted.

The representative of India again reverted to his argument based on the phraseology of sub-paragraph 3 (b) of the resolution of 5 January 1949 to the effect that the Plebiscite Administrator shall derive his authority from the State of Jammu and Kashmir. I went into that matter in detail yesterday and I will not repeat my arguments, but the representative of India said that while India has been given certain explanations and we had been given certain explanations, neither side knew at the time what explanations had been given to the other side, though those explanations have subsequently been published. If the explanations and clarifications given to India are to be binding, though they do not amount to what the representative of India contended, and those which were given to us are not to be binding, is that not applying one rule to one side and another rule to the other? That is why it was suggested that if any conflict arose over those clarifications given to either side, the arbitrator should decide. Anybody who arbitrates will obviously look both to the language of the resolutions and to the clarifications and assurances given to both sides; he will endeavour to find out what was understood by each side and to what each side agreed. As a matter of fact, the Government of Pakistan was itself so conscious of this—that any agreement arrived at must be an agreement upon the same things and in the same sense—that, in replying to the Commission's resolution of 13 August 1948, one of the main points made by the Pakistan Government was that any clarifications given to the Government of India must be communicated to and accepted by the Government of Pakistan, and any clarifications given to the Government of Pakistan must be communicated to and accepted by the Government of India before it could be said that an agreement had been reached. That has been our point and that was one of the conditions on our side which has been

described as amounting to a rejection of the resolution. But we are not responsible for that situation.

In my letter dated 6 September 1948 (*S/1100, paragraph 97*), addressed to the Chairman of the Commission, which contained the reply of the Government of Pakistan to the Commission's resolution of 13 August 1948, paragraph 10 states:

"The Government of Pakistan has not been informed of any clarifications and elucidations of the proposals contained in the Commission's resolution of 13 August 1948 that the Commission may have furnished to the Government of India. If no clarifications or elucidations have been furnished, no point in that behalf arises. If any clarifications or elucidations have been furnished by the Commission to the Government of India, it is necessary that they should be communicated to the Government of Pakistan and the latter's agreement to them secured. It is equally necessary that the clarifications and elucidations furnished by the Commission to the Government of Pakistan should be communicated to the Government of India and their acceptance of them secured. The Commission will recognize that it is of the utmost importance that any agreement between the two Governments should be arrived at on the clearest possible basis so that there is left no possibility of any misunderstanding of any of the matters agreed upon. In other words, it is essential that the two Governments should agree simultaneously to the same thing and in the same sense."

That is what we were pleading for.

The second plea that we made on that occasion was that part III of the resolution of 13 August should be elaborated so as to build up a scheme for the holding of the plebiscite in order that the whole thing should become complete up to that final stage.

In paragraph 11 of my same letter I added:

"Subject to the clarifications and elucidations furnished by the Commission to the Government of Pakistan being accepted by the Government of India, and the elucidations and

clarifications, if any, furnished by the Commission to the Government of India being acceptable to the Government of Pakistan, and provided the Government of India accept the conditions laid down in part II (paragraphs 6 to 15, both inclusive) of the Security Council's resolution of 21st April, 1948 [S/726], as explained by the sponsors of the resolution in the Security Council, for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan, the Government of Pakistan accepts the proposals contained in the Commission's resolution..."

That was our attitude then. Our attitude clearly was that each side must know the clarifications and elucidations given to the other, but in any case, whether they knew or not, they have accepted the resolution. If a question arises that the language of the clarifications or elucidations is in conflict or has to be reconciled to the situation or to the language of the resolution then, surely, it would be the business of the arbitrator who proposed—or of any other arbitrator who might be accepted—to study the matter, hear both parties, and say, "Here is what was intended by the Commission and accepted by both parties." For that matter, after that stage the points which are completely taken care of by the resolution are concluded, and the withdrawal of the bulk of the Indian Army and the questions of the authority of the State, of sovereignty and of integrity, are dealt with and taken care of in the resolution.

Then the representative of India said that, although he would not go into the question of Junagadh and Hyderabad because they were irrelevant, he would say that large sections of Muslims in Kashmir favoured India and that therefore the two cases were distinguishable. In the first place, the two cases are not irrelevant. I do not explain the outlines of these two cases in an attempt to invite the Security Council to pronounce upon them. I am quite conscious of the fact that they are not before the Council at this stage. However, I invite the attention of the Security Council to those cases to illustrate what was the Government of India's own interpretation of certain matters.

applying to the Kashmir case, and I think it will be a useful guide to the Commission in determining these matters of accession and so on. What is it that was meant and what is it that was intended, and how is it that the Government of India itself interpreted these matters as illustrations?

When the representative of India says that a large section of the Muslims in Kashmir favour India that is begging the question. That is the whole point at issue. How many? But even if they do, the obvious course to take is for us to proceed to the stage of a free and impartial plebiscite in which neither side has any advantage, in which neither side is able to exercise any influence or coercion, and in which the people are left entirely free to decide for themselves to which side they wish to accede. If they find that their interests, their desires and their ambitions impel them to accede to India, they will be free to accede to India. Where is the difficulty? Where is the problem?

Then the representative of India referred to a sentence of mine. He said that I had stated that the possession of Kashmir was vital to Pakistan. He will, however, do me the justice of recalling that at that stage all that I was arguing was that if one was to take the *prima facie* grounds which Lord Mountbatten had pointed out to the Rulers themselves, all those factors went in favour of accession to Pakistan. If the matter had to be decided on the basis of those considerations, the accession of Kashmir to Pakistan should have taken place on those grounds. If, in arguing that point, I on one occasion used the word "possession" instead of "accession" the representative of India cannot argue, "There it is. They want to eat up Kashmir. It is a case of the wolf and the lamb." Those who have followed the course of events in India with regard to the Indian States and the situation of the Indian States which have acceded to Pakistan, are well able to decide for themselves which is the case of the wolf and the lamb—whether it is that of India or of Pakistan.

I would complete this portion of my remarks by saying that, while I did present that argument, I went on to say that, in spite of all these factors, we had accepted the position that the decision should be by means of a free and impartial plebiscite to be held in Kashmir so that the people could decide to

which side they wanted to go. What is wrong with that? On the basis of all the factors which apply to the situation, Kashmir should have acceded to Pakistan, but in spite of that, Pakistan is willing that the democratic method of the people freely expressing their wishes should be followed and that the decision should take place in accordance therewith.

The representative of India cited certain trade figures, although he himself added that India was at that time unpartitioned and that his figures, therefore, were not exact. I would say that they were not even approximate. What is the means of checking how these figures have been arrived at? I gave to the Council one incontrovertible factor to which there can be no reply. The timber from Kashmir, which is Kashmir's main export, can, I believe, be transported economically and practicably only through its rivers, and all Kashmir's rivers flow into Pakistan. That is a factor that never can change. Other things can be diverted, but this cannot be. And geography itself indicates the means of communication—roads, the short rail length, the rivers—which all show with which side Kashmir was integrated before the trouble arose.

The representative of India made certain observations with regard to the dispute concerning the canal waters, and I was again amused by his saying that, in spite of reminders to us before the expiry of the interim agreement, we took no action. As a matter of fact, the history of that dispute, if it were before the Security Council, would disclose that during the month of March every effort of our engineers to get into touch with the Indian engineers in order to settle the further working of these head works was frustrated by their evasion. They would not agree to meet our engineers on one excuse or another, and then, on 1 April, they cut off the waters.

The waters remained cut off for about six weeks. True, the representative of India had stated that on 4 May 1948 an *ad interim* agreement was arrived at. But that *ad interim* agreement, as I have said, was arrived at at the point of the pistol and, as I have already stated, seeks to base India's point of view, at any rate, on the ground that India is entitled to the whole of the water and would sell it to us only on payment of

seigniorage. Were we not entitled to assume, in spite of that agreement and in spite of the restoration of the water on those terms—that we deposit the price of the water in the form of seigniorage—that if India once secured possession of the Mangla Head Works of the Jhelum irrigation system, it would insist upon the same view being accepted, and that unless we agreed to pay seigniorage, we would not be given any water? Was that apprehension not justified? I think that it was fully justified. The representative of India said yesterday that I had not mentioned that an agreement had been arrived at. I did mention the agreement. As a matter of fact I even used the expression—though it may not be acceptable to the representative of India—that it was arrived at at the point of the pistol.

Then my learned friend referred to my criticism of Margaret Bourke-White's remarks. He said some sort of Constitution had been drawn or was proposed. But what that lady said was: "While the People's Government in Kashmir's capital was completing these things. . ." Where was the People's Government at that date? Even Sheikh Abdullah, though he had been released from prison toward the end of September, was not associated with the Government in any form at all. He became Prime Minister much later. He was associated with the then Prime Minister after 26 October. The Maharaja, in his letter of 26 October, spoke of his intention of inviting Sheikh Abdullah to participate in the Government in that capacity. Up to that point, then, there was not even a vestige of any intention to associate any of the people with the administration. All through, the Prime Ministers of Kashmir had been taken from outside. Mr. Ayyangar, who had the honour to address the Security Council on the first occasion and who belongs to Madras, had been for several years—for seven or eight or ten years, I forget the exact period—Prime Minister in Kashmir. And at that time the Prime Minister in Kashmir was Mr. Meherchand Mahajan, a gentleman from East Punjab, no Kashmiri. Certainly, no Kashmiri Muslim belonging to the majority community of Kashmir had ever been associated with the Government, let alone that Government being the people's Government. That was the point of my criticism.

With regard to the Baramula Convent, I must say that my learned friend was not at all fair when he said that perhaps I was not content with what he had quoted previously. I myself said that there had been regrettable incidents in Baramula. My learned friend himself had conceded, quite fairly and justly, that we were not responsible for those incidents. We have not denied that the tribesmen were guilty of that kind of thing. Equally with the Government of India, we have deplored those incidents. But I did take up my learned friend's point, or the point he sought to make, to the effect that we had done nothing to prevent those incidents. I showed what we had done to prevent them, and I said that I pleaded guilty to this: that the Government of Pakistan at that time did not take the only appropriate action that it should have taken, more particularly in view of the fact that there was a standstill agreement with the Government of the Maharaja. We should have moved Pakistan troops into the State both to stop the disorders that were taking place on account of the tribesmen and also to stop the persecution of the Muslim section of the population by the Maharaja's troops. We did not do that, and therein we committed a serious default. If my learned friend's point is that we were guilty of neglect in that respect, then, as I have said, I plead guilty.

Then I quoted something from Mr. M. N. Roy. I certainly was guilty of saying that Mr. M. N. Roy, whatever his ideology and his political views, whether one agrees with them or not, was a non-Muslim Indian patriot; I am quite certain I said something to that effect. If that is such praise from me of Mr. M. N. Roy that my learned friend cannot tolerate it, will, I cannot help it. But Mr. M. N. Roy is a non-Muslim, that is to say, he is not a Muslim. He is Indian: I do not know whether or not that is denied. Whether his patriotism takes the same shape or form, so far as his political views are concerned, is a different matter. But if he has been an exile from India for many years, as my learned friend pointed out, he was an exile from India because he protested against the British domination of India at that stage. If that is not the definition of patriotism—or one of the definitions of patriotism—then what is?

And was I guilty in introducing his views, for whatever they may be worth? They may not be binding upon anybody. But he gave expression to his opinions, and, in introducing those views, I had to say something about who he was. If I had merely said "Mr. M N. Roy says this", the Council certainly would have been entitled to wonder, "Who is this man that he is talking about?" I had to give some description of him. What could I have said less than I did? And of what was I guilty in saying it?

I shall not try to make a reply in regard to the remarks of Brigadier-General Haight, the ex-G.I. who became a Brigadier-General under the *Azad* Kashmir Government. I did not quote those remarks during the previous debates, although they were then available. And there were very harsh things said by him about both sides, in order to get a price settled, I have no doubt, for the communications that he was prepared to make for the Press in the United States. I shall not quote them today. Mr. Ayyangar quoted them even two years ago, and, while quoting them, he suddenly came upon this expression: Both sides are lying extensively"—or some such adverb—"over this issue." Mr. Ayyangar stopped at that point and said: "Well, I hope he is not lying"—and then he went on to comment upon his further remarks.

It is not necessary to advert to that matter. If that is the kind of evidence on which my learned friend bases his case, he is welcome to it.

He then furnished an analogy. He said it was as if we had offered, as trustee, to sell a house to a friend or neighbour for 10,000 dollars. The friend or neighbour says "I am willing to take the house." Both have agreed that the house shall pass to the friend. The whole question is: what is the consideration? We have asked 10,000 dollars. We are first offered 5,000 dollars, then we are offered 3,000 dollars, then we are offered 2,000 dollars.

Again I say with all due respect that, if any learned friend's case rests on analogies of that kind, it is a hopeless case. Here it is not a question of what the price is or is not for anything that has been offered. Here is an agreement, as he himself says,

embodied in these two resolutions: the resolution of 13 August 1948 and that of 5 January 1949. The question is: What had the parties agreed upon? The question is not what they should agree upon—although that again, in these matters, is a legitimate way to talk in order to resolve this deadlock—but what they had agreed upon. And they should be called upon to do what they had agreed to do. If the neighbour or the friend had agreed to pay 10,000 dollars—to continue the analogy—then he must pay the 10,000 dollars, and he should get the house. If there was no agreement to pay anything, while the other side was demanding 10,000 dollars, then no agreement had yet been arrived at. How does it profit one to indulge in analogies of that kind?

My learned friend then said that they are willing to accept mediation, though they would not accept arbitration. But what has been going on during the past two years if not mediation? Mediation was undertaken and carried through, and it resulted in an agreement just over a year ago. The issue is now the implementation of that agreement. The mediation has, to the extent to which agreement was reached, successfully achieved its task. An agreement having been arrived at, the mediation having brought about agreement, the question now is: How is that agreement to be implemented?

There are various ways of implementing it, and I have indicated some of them to the Security Council. But mediation cannot start afresh with the whole thing. Are we going to spend year after year merely in attempts to mediate, reopening everything that may already have been agreed upon and starting afresh?

The crux of the matter is what my learned friend stated in his first two or three sentences. The efforts of the Commission resulted in the reaching of agreements on the resolutions of 13 August 1948 and 5 January 1949. If either party raises a question with regard to the interpretation of any portion of those agreements, it is not a question of mediation. The problem is to determine, by some fair and impartial method, what those agreements mean, what the parties had agreed to, and to give effect to it.

My learned friend says that the prestige of the United Nations is involved. I also say that the prestige of the United Nations is involved. But, if that is the case, let us accept what the United Nations says. How is the prestige of the United Nations to be upheld? By declining, time after time, to do what the United Nations suggests or recommends? The prestige of the United Nations can only be upheld in this way: if the parties have a difference and it is resolved either by the arbitration of a single person or by the arbitration of the Security Council itself—if these gentlemen who represent the whole civilized world, or at least the greatest part of it, consider the whole matter and tell the parties that this is what they had agreed upon—then the parties should be prepared to carry out that decision.

My concluding remarks are these. As the Council now has to proceed, after the parties have placed their cases in detail before it, the main trouble is with regard to the demilitarization of this State before the preparations for the plebiscite can start. I mean that, by and large, that is the situation. India has given certain versions of some incidents it complains of, or of some development. We have given our reply. Before the Security Council is able to appraise the whole thing and to make up its mind with regard to what ought to be done, it will either feel that it has had enough information with regard even to the military situation from both sides and from the documents, to be able to determine the matter quite clearly; or it may feel that on some aspects put forward by India and some on behalf of Pakistan, it is not quite clear as to the extent to which they differ and what the actual situation is or has been.

I venture to make a suggestion which could very easily resolve any doubt that might arise in the minds of the representatives to the Security Council. The Commission's military adviser, General Delvoie, has been supervising all these things practically from the date of the second resolution of the Commission, that of 5 January 1949, and he has spent almost the whole of the year 1949 in the affected areas. He must have complete and detailed knowledge of the actual facts and of the situation. He is a distinguished soldier, completely fair and

impartial, belonging neither to one side nor the other. He has devoted one whole year to this service of the United Nations. He is available to the Council. On any points on which the Council feels in doubt, or on the whole military picture, the Council can ask him for his views and can supplement what it receives from him with regard to knowledge of the facts by such information as the parties have given, and can correct to any extent to which a correction may be necessary the views the parties hold with regard to each of these matters.

It has been said that India's position is that it desires an amicable settlement, a settlement through the United Nations. All true. India's insistence is that, although that settlement should be with the United Nations and the United Nations should take the responsibility for it, that settlement must be what India says. It is not willing to move from its point of view, and in proof of its desire to settle amicably, and repeated attention being drawn to the fact that we have said we do not want to go to war over these things, I made my situation clear on the last occasion when I spoke in connexion with this matter.

I have now received, since I spoke yesterday, the last reply of the Pakistan Government to the Government of India on this matter. The reply is somewhat lengthy and I shall not read it, but after putting forward the kind of considerations I had already mentioned to the Security Council, it says this:

"In the light of these considerations the Pakistan Government suggest the following joint declaration:

"The Government of India and the Government of Pakistan, being desirous of promoting friendship and good will between their peoples, hereby declare that they condemn resort to war for settlement of any existing or future disputes between them. They further agree that the settlement of such disputes shall always be sought through peaceful methods of negotiation and mediation and, if these should fail to bring settlement, by resort to arbitration of all points of difference, including those relating to the procedure for arbitration.

"They undertake that they will abide by the award of the arbitrator. Mediation or arbitration may be undertaken by

a specialized agency set up by mutual agreement for the purpose or by agreed reference to some appropriate international body recognized by both of them.

"In pursuance of this declaration, both Governments hereby agree to refer to arbitration differences that have arisen or may arise in the implementation of the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, which both Governments have accepted for settlement of the Kashmir dispute.

"Both Governments also agree that the canal water dispute shall, if no agreement is reached by negotiation or mediation, be referred to the International Court of Justice for decision. In other disputes outstanding between them, such as Junagadh, evacuee property, boundary disputes and claims relating to assets, both Governments agree that if no settlement is reached by negotiation and mediation, the matter shall be referred to arbitration.

"It is their earnest hope, as well as their firm conviction, that the implementation of this declaration and the spirit which lies behind it will serve to promote friendly relations between the two countries and advance the cause of international peace.' "

The situation in this respect is that while the Government of India invites us to subscribe to such declarations, it will not make any move towards the peaceful settlement of these disputes, whereas our attitude is set out in the declaration that we are willing to subscribe to and to issue and to act upon. I do not see that we are in any way behind India. As a matter of fact, we are miles in advance of the Government of India in suggesting a practical way of settling the disputes in a friendly manner.

To conclude, our position is this. We are prepared to accept the 6 February 1948 draft resolution of the Security Council [S/667] which was under discussion and supported by the six representatives on the Security Council who had already spoken before the Indian delegation withdrew to Delhi for consultation. We are prepared to accept, we do accept, the 21 April 1948

resolution of the Security Council [S/726], the whole of it as it stands. We have accepted, and India has accepted the 13 August 1948 resolution and the 5 January 1949 resolution of the Commission. That is the only point where agreement has been reached. Differences have arisen even, as Sir Benegal N. Rau said, with regard to the implementation of the resolution; that is to say, the second part of the resolution of 13 August 1948.

The Commission suggested arbitration. We are prepared to go to arbitration to have those differences resolved. General McNaughton dealt with those proposals and has made his suggestions [S/1453]. We are prepared to accept them. Would this show that we are anxious to settle the dispute in a friendly manner through the United Nations, upholding and enhancing the prestige of the United Nations? Is this India's attitude, when at each stage it insists that its point of view must be accepted and carried through?

Briefly, again I shall repeat Sir Benegal N. Rau's words with which he started this afternoon, namely, that the whole problem before the Security Council is how to resolve the differences of interpretation that have arisen between the two Governments with regard to the truce stage of these two resolutions and to go forward with regard to them. It is a serious enough problem. It is in some respects even a complicated problem. But the task is clear before the Security Council, and that is the responsibility that lies on its shoulders. I trust, indeed I am confident, that having now so clear a picture of the whole matter before it, the Security Council will undertake to discharge, adequately and effectively, this responsibility towards the two Dominions and, indeed, towards the whole civilized world and to the cause of international peace.

125. Text of the Speech made by Sir Benegal N. Rau (India) in the Security Council Meeting No. 469 held on 8 March 1950

I communicated to my Government the text of the four Power joint draft resolution as introduced in this Council on 24

February 1950 [467th meeting] and I have now been instructed to make the following statement:

My Government has given the most careful consideration to the resolution jointly sponsored by the representatives of Cuba, Norway, the United Kingdom and the United States. It has no comment to make on the preamble.

Paragraph 1 of the draft resolution calls upon the Governments of India and Pakistan "to prepare and execute within a period of five months...a programme of demilitarization on the basis of the principles of paragraph 2 of General McNaughton's proposal, or of such modifications of those principles as may be mutually agreed". In the statement which I made before the Security Council on 7 February [463rd meeting], I fully explained the views of my Government on the legal and moral issues involved in the Kashmir dispute and on the proposals of General McNaughton. Those views were conceived in no spirit of obstruction, but are reasonable and just and my Government wishes to reaffirm them.

In paragraph 2 of the draft resolution the appointment of one United Nations representative to perform the functions described therein is envisaged. My Government prefers that those functions should be assigned to a group of three, one to be nominated by it, one by the Government of Pakistan, and the third, who would be the Chairman, by the Security Council in consultation with the two Governments. Failing this, my Government desires that the person chosen as representative should be acceptable to it.

As regards sub-paragraph 2 (a), my Government assumes that agreements that might be reached hereafter are meant. It also assumes similarly that the agreements referred to in sub-paragraph 2 (d) are agreements on demilitarization that may be reached hereafter between the parties.

It is my Government's firm intention to continue to observe the conditions suggested in paragraph 3 of the draft resolution.

This concludes the statement which my Government has instructed me to make. As I have already said, this statement

is based upon the draft resolution as introduced on 24 February 1950. I shall now telegraph to my Government the explanatory statement made by Sir Terence Shone on behalf of the sponsoring Powers, and I hope to give the Security Council at our next meeting my Government's views on the draft resolution as now explained.

126. Text of the Speech made by Sir Mohammad Zafrulla Khan (Pakistan) in the Security Council Meeting No. 469 held on 8 March 1950

While the Security Council has before it the text of the draft resolution, as explained both in the speeches which were made at previous meetings and in the clarifications which have been offered today on behalf of the sponsors, one is left in considerable doubt, and also in some puzzlement, with regard to the attitude of the Government of India on the specific proposals contained in the draft resolution.

I have noted, and I value, the expression of opinion which the representative of India has just given, and of course I am not at all inclined to think that he was under any obligation to do more if he did not find it convenient to do so, or if he was not ready to do so today. All that I desire to point out is that, on this score, one is left in a state of considerable uncertainty. So far Pakistan is concerned, it would perhaps be useful to draw the attention of the Security Council to some of the clarifications that have been offered this afternoon before seeking to appraise, if I might be permitted to use that expression, the draft resolution as a whole.

There is a good deal in this statement of clarification which we note with satisfaction. It meets some of the points that we had ourselves raised in discussions with the sponsors of the draft resolution. One notes, for instance, the belief of the sponsors that the draft resolution provides a practical procedure for moving forward towards the final settlement of the Kashmir dispute by building on the essentials of agreement already reached between India and Pakistan. The outstanding agreement between India and Pakistan with regard to the settlement of this dispute, reached at a very early stage and to-

which both Governments have throughout adhered without casting any doubt upon the validity of that agreement, is that the question of the accession of the State of Jammu and Kashmir to Pakistan or India will be settled through the ascertainment of the freely expressed wishes of the people of Kashmir. As soon as the matter was brought before the Security Council early in January 1948, that agreement was noted with great satisfaction by the Security Council itself. All that has been attempted since is to bring about agreement between the parties as to the conditions which would ensure the holding of a free and impartial plebiscite.

Doubt has never been cast on the main agreement from either side. As a matter of fact, in the letter that Lord Mountbatten, who was then Governor-General of India, wrote to the Maharaja on 27 October 1947 [227th meeting], he clearly told the Maharaja that the question of accession would be decided by the clearly expressed will of the people of Kashmir itself. Every resolution, whether merely drafted and discussed or whether adopted, and every suggestion since made by the Security Council, has been based upon that agreement. The resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 [S/1100, paragraph 75] and of 5 January 1949 [S/1196, paragraph 15], repeat this agreement and proceed to build upon it. As I have said, doubt has never been cast upon it, and one notes with satisfaction that the draft resolution now under consideration by the Security Council proceeds upon the same basis.

The whole effort has been, and is today, that the actual settlement to be built up between the parties should be such as to ensure that objective: the holding of a free and impartial plebiscite. I venture to submit that any proposal, whether advanced on behalf of either of the parties or suggested by the Security Council or by any other organ of the United Nations, must be subjected to that acid test. We have been willing throughout, and we are quite willing today, to have anything that has ever been suggested on behalf of Pakistan submitted to that test. If any suggestion put forward by us, any proposal made by us, any condition upon which we may insist, has had,

in the opinion of the Security Council, or should have, in the opinion of the United Nations representative to be appointed under the draft resolution, or in the opinion of the Plebiscite Administrator, the character of forcing or coercing or putting pressure upon a single voter in the State of Jammu and Kashmir to vote on this question contrary to his free inclination, or of putting him in fear that, if he votes according to his free inclination, some undesirable consequences may follow as far as he is concerned, then that suggestion, that proposal, that condition may either be rejected altogether or modified as may be desired. We wish that the same test should be applied throughout.

During the debates in the Security Council, both in 1948 and now, following the remission of the matter to the Council by the Commission, an attempt has been made to import into the discussion of that aspect of the problem considerations of a kind which have no relation to the establishment of conditions which would ensure a free expression of opinion on this question of accession to Pakistan or to India. One has perforce been compelled, when those considerations have been put forward, to make a reply with regard to them, lest it should be assumed that they had some force or that there was no adequate reply. But one recognizes the justice of the comments made by the representative of Norway on 24 February 1950 [*467th meeting*] to the effect that those matters are really irrelevant to the main problem before the Security Council. For instance, if an argument for the extension of the military control of India to certain areas in the State of Jammu and Kashmir now under the control of the *Azad* Kashmir Government is based on legalistic conceptions of sovereignty, then, apart from the inherent weakness of the argument itself in view of what has taken place, the test is: Would such an extension help the people of Kashmir to record their views on this question freely, or would it retard such a development or make it more difficult?

This is the aspect of the problem that requires the real attention of the Security Council, and again, we note with

satisfaction that the main features of the draft resolution before the Security Council are directed toward that aspect.

We have already submitted to the Council that, at various stages in the consideration of this problem, the sum and substance of these safeguards that would ensure the free expression of the will of the people of Kashmir has been steadily whittled down. The Security Council started by placing on record its view that the main considerations were to exclude all outside military forces and to bring about the setting up of a neutral and impartial administration in the State of Kashmir, and that these two factors alone could ensure a free and impartial plebiscite. In the course of negotiations and the efforts of the United Nations Commission to bring about agreement between the two sides as to the conditions of a free and impartial plebiscite, this second main safeguard has had, to a large degree, to be abandoned, as agreement could not be brought about between the parties with regard to it. It is true that there are safeguards embodied in the resolution of the Commission itself which are calculated to improve the situation in that respect, but nobody will pretend that they amount in effect to the same thing as a neutral and impartial administration. The other main safeguard is the demilitarization of the State, and that is where the main trouble arose between the parties after the acceptance of the resolutions of the Commission of 13 August 1948 and 5 January 1949.

Those are the aspects that ended in a deadlock: certain contentions advanced on behalf of India and contested on behalf of Pakistan on which agreement could not be reached. Nor could an agreement be reached with regard to the method of procedure for resolving those differences. The Council itself had to take cognizance of the matter again, and while noting the main features of the resolution, one does want to stress this factor: that this resolution should go out from the Security Council to the parties in a form and with a commendation which would make quite clear what was the line that the United Nations representative was to take with regard to the matters in dispute. The Security Council might not consider it desirable to pronounce upon every aspect of these disputed matters, but

it should at least make the main things clear. Then there should be some person, the representative of the United Nations or some authority, with the power to resolve the remaining portion of the dispute if it should be agitated again. Otherwise the whole thing will become a series of references back to the Security Council and of attempts by the Security Council again to have the parties resolve these difficulties between themselves.

It is from that point of view that I desire to comment on the following paragraph of the statement read out a short time ago by Sir Terence Shone:

"It has been asked whether the provision in sub-paragraph 2(a) of the joint draft resolution that the United Nations representative should interpret demilitarization agreements, is intended to refer only to future agreements. We conform that this is the intention."

Of course, we obviously note that this is the intention of the sponsors, but if that is so, a lacuna still remains. What do the sponsors and the Council as a whole visualize would happen, or should happen, in the event that the dispute with regard to the agreements already reached should be again revived and presented, almost as a preliminary matter, to the United Nations representative as soon as he took over the discharge of his duties under this draft resolution? To the extent to which the Security Council would have expressed its views in the draft resolution, he would have guidance. But would not or could not this paragraph be taken advantage of in support of the attempt to press upon the United Nations representative that he still has to resolve the disputes which necessitated the reference back to the Security Council? Some clarification at a later stage with regard to this would be very welcome.

With regard to the main demilitarization problem, we note particularly the contents of two paragraphs of the statement that has been read out today. While we have no comments on the contents of the first of these paragraphs, we are somewhat perturbed by the conclusion reached at the end of the second, which begins by saying: "As to the question of the temporary administration of the northern area, the co-sponsors believe it

to be a corollary of the maintenance of the cease-fire line that the military and civilian authorities on their respective sides of the cease-fire line must be able to co-operate with each other". As this sentence reads it appears to us to mean that there is no intention that the cease-fire line should, with regard to the military arrangements, be disturbed in any respect at all, that is to say, that the armed forces on either side must confine themselves to their side of the cease-fire line. That being so, it is a corollary of the maintenance of the cease-fire line that the military and civilian authorities—the military authorities being what they are today in the northern area—on their respective sides of the cease-fire line must be able to co-operate and that, therefore, no disturbance of the civilian administration should take place.

If that had been all we should have no comment nor cavil against it. But the paragraph goes on to say: "The sponsors have therefore assumed, as General McNaughton appeared to assume in paragraph 2 of his proposals, that there could be no question of making any change in the civil administration in the northern area". I do not know exactly what the ultimate effect of this assumption is. Although it is put in the form of an assumption, it does say that there could be no question of making any change in the civil administration in the northern area, which, again, is completely satisfactory to us.

I may point out in passing, however, that General McNaughton does not appear merely to assume. General McNaughton's proposal in sub-paragraph 2 (b) is: "The 'northern area' should also be included in the above programme of demilitarization, and its administration should, subject to United Nations supervision, be continued by the existing local authorities". There is neither any assumption here nor merely an appearance. There is as clear-cut a statement as could possibly be made by anybody on this matter. That is in passing.

The sponsors go on to say that they "are fortified in this view"—that is, their substantive view that there should be no interference with the civil administration—and that they have an additional reason or an additional cause for satisfaction in

taking this view in the "apparent belief of the Commission that any such change would involve the risk of an extension of military activity". Now comes the sentence which is the cause of our perturbation: "If the United Nations representative should find the assumption I have mentioned unwarranted"—I should like to know exactly what is meant by "should find the assumption I have mentioned unwarranted"—"this draft resolution would not preclude him from suggesting other appropriate and equitable arrangements". Would the corollary that the military and civilian authorities on either side must co-operate with each other cease to hold good? Or, assuming again for one moment that there were no serious danger that if the Maharaja's civil authority were reorganized in these areas, there would be disturbances, would the United Nations representative be at liberty then to say the Maharaja would assume civil authority there? What is meant? We should like to know exactly what is in the minds of the sponsors. After all, a clarification should clarify, not obscure, a matter.

Again, with regard to these areas, the fundamental thing is not that the entry of the Indian armed forces into them would bring about a resumption of fighting, although that is a very important consideration. The fundamental thing is—as I respectfully indicated to the Security Council during my first submission—that at no time since 20 August 1948, when this question was first raised with the Commission by the Prime Minister of India [*S/1100, paragraph 78*], has the military control of the forces of India been exercised or the Maharaja's authority in respect of civil administration been recognized with respect to a single inch of territory within these areas. There is the fundamental thing. If that has been so, then, whether the assumptions made here are found by the United Nations representative to be correct or not, what would be the basis for making any change? As a matter of fact, that is one of the principal questions which the Commission referred back to the Security Council. One had hoped and expected that the clear proposal made by General McNaughton in respect of the matter would put an end to any further doubt on it, but if the Council does entertain any other possibility of a solution with

regard to these areas, it would be only fair to my Government to insist that we should know it quite clearly before we could say whether or not it would be acceptable to us.

As regards the paragraphs of the statement which relate to sub-paragraph 2 (b) of the draft resolution now before the Council, the first of these paragraphs and the first sentence of the second make it quite clear that "the Council would expect any suggestions which the representative might make to be compatible with the agreed objective".

As I have been at pains to reiterate to the Council a few months ago, the agreed objective is the determination of the question of the accession of the State of Jammu and Kashmir to Pakistan or to India through the democratic method of a free and impartial plebiscite. Regarding that, there has been no doubt whatsoever at any stage. That is the agreement between the parties and that is the agreed objective, so this sentence sums up the position quite correctly. But again, there is something in this paragraph, namely, the second sentence, which perturbs and disturbs us even more than the matter to which I have already referred. It says: "Only if he should find, after an investigation on the spot, that the agreed objective was impracticable, would he be expected to make suggestions at variance with this objective". We should like to know exactly what that means. I am sure that after this statement is communicated to my Government, it will ask me to let it know the exact import of that sentence. I shall try to put to the Council the concrete difficulties that may arise.

The matter on which we wish to be clear is whether it would or would not be open to either party, if it were so inclined, to say to the United Nations representative: "Why go through all the travail of trying to bring about an agreement in pursuance of these objectives and principles laid down here and to obtain settlement of the details of the demilitarization and the various other questions that arise later on with regard to the control over the administration and so on, in order to ensure a free and impartial plebiscite? You are first expected to carry out an investigation on the spot. At any rate, you are expected to carry out an investigation on the spot whether or not the agreed

objective is practicable. That is why that sentence is there. Why do you defer that investigation? Why not undertake that investigation now? If that investigation should prove that the agreed objective is impracticable, then why go through all the difficulties which would be involved in progress toward that objective?"

Having raised that, possibly a question of the interpretation of that sentence in the statement would arise and the United Nations representative himself would not be competent to interpret it. This is not an agreement reached between the parties through him afterwards. This question itself might occupy him for some weeks: whether he must start the investigation, or whether he is to carry through his duties with regard to the agreed objective.

-Now supposing that difficulty is overcome in some manner or other, would it be open for either party, irrespective of the United Nations representative's willingness or unwillingness to undertake this investigation on the spot, to say: "We undertake to convince you that the agreed objective is impracticable without your investigation on the spot"? The other side might then be under the necessity of having to convince him that it was practicable. Again, the parties and the United Nations representative might get involved in an absolutely fruitless and futile discussion having no reference whatsoever to the agreed objective and to what we have no doubt the Security Council itself desires should be accomplished.

A third concrete question is this. Assume that one of the parties, not desiring to have the question decided by a free and impartial plebiscite, should create conditions which would make the organizing and holding of a free and impartial plebiscite impracticable, would the United Nations representative then be justified in saying: "Well, I am now faced with these conditions, and the agreed objective has become impracticable"? In his report he would probably not say that one party had made it impracticable, but it might well appear that such had been the case. Would he then be within his rights to proceed to make suggestions at variance with the agreed objective?

There are possibilities of all those kinds of mischief in the interpretation of this one sentence, and we shall be very happy, whenever it is convenient to the Security Council, to know, first, what is meant exactly by this sentence and what contingency it provides for and, secondly, in respect of each of the three concrete difficulties I have mentioned, what is the solution that the Security Council visualizes?

The attitude of my Government throughout this controversy has been to co-operate with the United Nations to the fullest extent in bringing about the establishing conditions that would ensure a fair and impartial plebiscite, conditions that would give no advantage to either side in the matter of the plebiscite, and, at all stages, the Pakistan Government has been willing to accept proposals and suggestions and resolutions which were designed to bring about this result. If at any stage a proposal has seemed to us either not to lead to that result expressly or to leave factors in operation which would amount to imposing any coercion or fear upon the voters, then the Government either declined to accept the proposal or suggested alternatives.

Look, for instance, at the Commission's resolution of 13 August 1948. It dealt with the cease-fire and it dealt with the truce agreements, but it did not go on to deal with the establishment of conditions to ensure a free and impartial plebiscite, and the objection of the Pakistan Government to the resolution was that part III thereof should have been extended so as to deal with that matter also. There was not much objection, apart from discussion of the question of details and clarifications with regard to the resolution as far as it went, but when it stopped short of dealing with that aspect, the Pakistan Government obviously found itself unable to accept it as it stood. But when the resolution of 5 January 1949 removed that lack and made the resolution complete—cease-fire, truce terms, conditions for the plebiscite—the Government of Pakistan was not only willing, but ready, to accept the resolution and to do its own part to the fullest to put it into execution. That, by and large, continues to be the attitude of the Government of Pakistan, but in the determination of those conditions the Pakistan Government, as I have said, has been pushed back

from stage to stage to the last ditch. It feels that any further modification of what has been agreed upon and what it has already accepted would put in serious jeopardy the freedom and impartiality of the plebiscite.

We are not convinced that the conditions which already have been agreed upon completely guarantee a free and impartial plebiscite. But to the extent that a risk is involved in the acceptance of those conditions, we have reconciled ourselves to that risk, relying mainly—indeed most entirely—on the fact that a Plebiscite Administrator of the distinction, calibre, experience and integrity of that gallant and distinguished gentleman, Admiral Nimitz, will see to it that, having engaged himself to guarantee that the plebiscite held under his organization and supervision is free and impartial, it will be as free and impartial as human effort can make it. But as I have said, we have arrived at a stage in which any further modification or relaxation of any of these conditions would not be acceptable to the Government of Pakistan.

I have already indicated that the main features of the draft resolution now before the Security Council are satisfactory from the point of view of the Pakistan Government, but its categorical reply to the question whether it is able or not able to accept the draft resolution would depend very largely upon the clarifications that I have sought.

That is all that I have to submit at this stage.

127. Text of the Speech made by Sir Mohammad Zafrulla Khan (Pakistan) in the Security Council Meeting No. 470 held on 14 March 1950

In the course of my submission to the Council when it met last, I made it quite clear that the attitude of my Government was to regard the draft resolution, in its main features, as satisfactory. In fact, I had very little to say on the language of the resolution itself. Such observations as I submitted to the Council were directed towards a portion of the clarifications offered to the Council on behalf of the sponsors of the resolution by Sir Terence Shone. I shall try to follow the lead given

by Sir Benegal N. Rau by way of keeping my own statements quite concise and brief.

Before I submit my Government's attitude on the resolution itself, I do want to make just one observation on something that was said by Sir Benegal N. Rau during his submission to the Council at the last meeting which I was not quite able to follow at the moment. In drawing attention to sub-paragraph 2 (d) of the joint draft resolution, he said that he assumed, or at any rate desired, that the agreements referred to therein would also include agreement that may be arrived at in the future. As I have said, I was not quite able to follow him then, but a further study of his statement, and consultation with my advisors, has indicated what his meaning might have been. Sub-paragraph 2 (d) reads as follows:

"To arrange at the appropriate stage of demilitarization for the assumption by the Plebiscite Administrator of the functions assigned to the latter under agreements made between the parties."

It is perfectly clear that the joint draft resolution speaks of agreements made between the parties in the course of the two resolutions of the Commission of 13 August 1948 [S/1100, paragraph 75] and 5 January 1949 [S/1196, paragraph 15], which both parties accepted. During the course of the speeches made in the Security Council with reference to this matter, and in the clarifications offered by Sir Terence Shone, this matter has not been left in any doubt. I refer to it merely in order to draw attention to the fact that the language to paragraph 2, as well as the meaning of the whole draft resolution, is entirely unsusceptible to the interpretation sought to be placed upon sub-paragraph 2 (d) by Sir Benegal N. Rau.

I pointed out at the last meeting that in our view two of the clarifications offered were not in accord with the spirit or language of the draft resolution.

First, according to us, there is no kind of assumption made by General McNaughton in sub-paragraph 2 (b) of his proposals. That sub-paragraph is quite clear. It reads as

follows: "The 'northern area' should also be included in the above programme of demilitarization, and its administration should, subject to United Nations supervision, be continued by the existing local authorities". That, I submit, is perfectly clear; as a matter of fact, it stands in no need of clarification.

With regard to sub-paragraph 2 (b) of the draft resolution under discussion, I took pains at that time to submit to the Security Council—and I need not repeat what I said on that occasion and have repeatedly declared on every occasion when this matter has come before the Security Council, or has been discussed before the Commission—that the agreed objective between the parties is that the question of the accession of the State of Jammu and Kashmir to Pakistan or to India is to be determined through the democratic process of a free and impartial plebiscite; and that that is the objective which has to be pursued unswervingly and unflinchingly by the United Nations representative to be appointed under this draft resolution, as well as by all other organs of the Security Council and of the United Nations as a whole.

Having made these submissions, I need only remind the Security Council what Pakistan's attitude was generally with regard to the McNaughton proposals, and that having been so, I do not think that anybody could have been left in any doubt with regard to what Pakistan's attitude would be towards the joint draft resolution which is based upon the proposals of General McNaughton; that is, that we accept the draft resolution and shall do whatever may be required of us to co-operate with the United Nations representative and the Plebiscite Administrator, and with any other authorities and organs that may be appointed to carry through the objectives of this draft resolution. And when I say "we accept the draft resolution", I mean both the letter and the spirit thereof: what it aims at, and the processes through which it desires to arrive at that aim.

128. Text of the Speech made by Sir Benegal N. Rau (India) in the Security Council Meeting No. 533 held on 1 March 1951

This case has been before the Security Council so often and so

long that I shall not weary representatives by repeating in detail the facts or the arguments upon which India relies. They are fully set out in the two speeches which I made in this Council last year [463rd and 466th meetings]; but for the information of the new members of the Council, I shall mention briefly the most salient facts.

On 20 October 1947 the State—by which I mean the State of Jammu and Kashmir—was invaded by hostile elements, in contravention of international law, as mentioned by Sir Owen Dixon in paragraph 21 of his report to which I invite the attention of representatives. Those invaders consisted of tribesmen and Pakistan nationals entering the State through or from Pakistan territory.

On 26 October 1947, the Ruler executed an instrument of accession to India in order to save the State from the invaders. The accession was supported by Sheikh Abdullah, the head of the Jammu and Kashmir Conference, a predominantly Moslem, though non-communal, political organization which had long been fighting for democracy in Kashmir.

On 27 October 1947, Lord Mountbatten, then Governor-General of India, accepted the instrument. The execution of the instrument by the Ruler, coupled with its acceptance by the Governor-General, completed the legal requirements of accession. Lord Mountbatten, however, wrote to the Ruler expressing the Government of India's wish that when law and order had been restored and the soil of the State cleared of the invader, the question of accession should be settled by a reference to the people. Thus India voluntarily imposed upon itself the obligation, when normal conditions were restored, to give the people the right to decide whether they would remain in India or not.

On 1 January 1948 India brought the present case before the Security Council complaining that Pakistan was assisting the invader [S/1100, annex 28]. Pakistan emphatically denied the allegation, but as will appear presently, the complaint—and more than the complaint—has been proved to be true. I hope this fact will be borne in mind—that in the present case India

is the complainant and that the complaint has been proved to be true, not only as originally laid but in an aggravated form.

On 8 May 1948 units of the regular Pakistan forces moved into the territory of the State in contravention of international law. Again I invite the attention of representatives to paragraph 21 of Sir Owen Dixon's report.

One of the grounds for this military operation was a recommendation of the Commander-in-Chief of Pakistan that an easy victory for the Indian Army was almost certain to arouse the anger of the invading tribesmen against Pakistan "for its failure to render them more direct assistance" [464th meeting].

Thus Pakistan, not content with assisting the invader, itself became an invader and its army is still occupying a large part of the soil of Kashmir, thus committing a continuing breach of international law. Pakistan has not only occupied large areas of Kashmir in this way, but has also built up subversive local forces and authorities in those areas.

I should like at this stage to try to remove some of the misconceptions and prejudices that appear to have gathered round this subject. The Kashmir question is not a Hindu-Moslem question as so often represented or misrepresented. It is said, "India is a Hindu State; Pakistan is a Moslem State; Kashmir is predominantly Moslem and therefore belongs to Pakistan; India is trying to retain it by force." That is how the argument is presented to those who are far away from the facts. Let me repeat some of those facts. Even after the separation of Pakistan, India still has a Moslem population of some 40 million—the third largest of any State in the world. I believe Indonesia comes first, with something like 70 million Moslems; Pakistan next, with about 66 million, well over half in East Pakistan, which is about 1,000 miles from Kashmir; and India comes third, with about 40 million. I have taken those figures from *The Population of India and Pakistan* by Kingsley Davis, a Princeton University publication of 1951. Apart from mere numbers, it is important to remember that India is a secular state, with a "Bill of Rights" providing for equality before the law, freedom for discrimination, freedom of religion and various other rights enforceable by direct recourse to the Supreme

Court. Every reasonable safeguard which could be devised for the protection of racial or religious minorities has been embodied in the Indian Constitution now in force. The present governmental structure in India is significant. The Prime Minister of India is a Hindu; the deputy leader, who is also Education Minister, is a Moslem; so too is the Minister of Communications; the Defence Minister is a Sikh; the Health Minister is a Christian, and the members of the Security Council may be interested to learn she is a woman; the Law Minister and the Minister of Labour are members of the scheduled castes. The nine governors of the States in India include a Moslem, a Christian and a Parsee; the elected Speaker of the largest State Legislature in India is a Moslem; our Ambassadors include two Moslems; the Supreme Court of India includes a Moslem judge and a Christian judge; the Chief Justice of the Bombay High Court is a Moslem; our fighting forces include Moslems—one of them a general.

So much for India. And as to Kashmir—I am speaking of the lawful government of Kashmir—there is a cabinet of seven—the Prime Minister, Sheikh Abdullah, is a Moslem and four of his colleagues are Moslems; thus three-fourths of the cabinet is Moslem. It is this cabinet—predominantly Moslem—that is administering Kashmir affairs today. It represents an organization, namely, the Jammu and Kashmir National Conference, also predominantly Moslem, which has been fighting for democracy and freedom for decades, and this organization desires that Kashmir should remain in India. For this desire, it has given cogent and impressive reasons. I am quoting from a declaration made by a convention of the Jammu and Kashmir National Conference in October 1948:

“During the long and glorious struggle for our freedom, our people have gained the experience that the real problem facing them is the plight of the people, irrespective of caste, creed and colour, and that the solution to this problem does not lie in dividing the people on a religious basis but by equitable distribution of national wealth. Pakistan, with its basis of the two-nation theory and its insistence on the

perpetuation of religious distinctions, does not and cannot accommodate a programme and an outlook which is the very negation of its basis and conception of social justice. The convention strongly hopes that the Indian Government and the people of India will lend the people of Kashmir all material, moral and political support in completing this task and in achieving the goal of economic and political freedom."

Reference has been made in the course of Sir Owen Dixon's report and in some of the speeches in this Council to India's rejection of this or that proposal, and an impression might have been created that India has been intransigent. On analysis, this so-called intransigence will be found to be no more than an insistence on pledges already given to India, particularly on questions relating to the security of Kashmir. The United Nations Commission for India and Pakistan's resolutions of August 1948 and January 1949 [S/1100, S/1196], agreed to by all parties, contain adequate provision for a free and impartial plebiscite under United Nations auspices, and the Government of India cannot make any further concessions. The Government of India merely reflects Indian public opinion. And on this question of Kashmir, Indian public opinion cannot forget the fundamental facts, namely, that India voluntarily offered a plebiscite under United Nations auspices, that in spite of this, Pakistan chose to invade the State and occupy nearly half of it by force in violation of international law, as Sir Owen Dixon himself has found; that to allow this occupation or its fruits to continue is wrong enough; and that to grant Pakistan any further concessions would be to aggravate the wrong and therefore would be completely unjustifiable.

The Council may better appreciate the position if I were to cite a rough parallel. The island of Cyprus, once under Turkish suzerainty, is now British territory. Nearly 80 per cent of the population is Greek; it is said that they desire union with Greece. So far, the United Kingdom Government has not agreed to any plebiscite; but suppose it should be so generous as to agree to a plebiscite under United Nations auspices. Having got this concession, suppose—if I may make so unlikely

and unfair a supposition—Greece were to move an army into Cyprus and occupy half the island for several years and then say, "The plebiscite must be held with half the island under Greek local authorities; the British security forces must be removed; even the British administration must be supplanted." Does anyone doubt how the United Kingdom would view such an attitude?

The question now before the Council concerns the next step. The United Kingdom and the United States of America have jointly sponsored a draft resolution [S/2017] embodying their proposals as to what should be done next. In order to help the Council to consider this question, I shall try, very briefly, to describe the situation which exists in Kashmir at present.

The Kashmir case has now been before the Security Council for more than three years. No solution has yet been found, because the root-cause of the trouble, namely, the unlawful occupation of nearly half the State and the creation of subversive forces and authorities therein by Pakistan, has been allowed to continue. When I speak of Pakistan's unlawful occupation, I am expressing not only the view of my government, but also the view which the United Nations representative, Sir Owen Dixon, was prepared to adopt. Let me quote his own words:

"Without going into the causes or reasons why it happened, which presumably formed part of the history of the sub-continent, I was prepared to adopt the view that when the frontier of the State of Jammu and Kashmir was crossed on, I believe, 20 October 1947, by hostile elements, it was contrary to international law, and that when in May 1948, as I believe, units of the regular Pakistan forces moved into the territory of the State, that too was inconsistent with international law" [S/1791, para. 21].

So long as the root-cause of the trouble continues, there can be no solution to the problem. Meanwhile, the Government of this State has to be carried on in accordance with law, if there is to be no anarchy or chaos.

The present legal position is that Kashmir—by which I mean the State of Jammu and Kashmir—is a unit of the Indian Federation, subject to federal jurisdiction in respect of the broad categories of defence, external affairs and communications, but completely autonomous in almost all other matters. In the autonomous sphere, the State is entitled to frame its own constitution and for this purpose, to convene a constituent assembly of its own people. The main purpose of the constituent assembly would be to provide a proper elected legislature for the State to which the executive could be made responsible as in the British parliamentary system of government. So far as the Government of India is concerned, the constituent assembly is not intended to prejudice the issues before the Security Council, or to come in its way.

Pending the framing of a new constitution for the State by its own constituent assembly, the government is necessarily carried on under the existing Constitution as a provisional arrangement. The Yuvaraj is the constitutional head of the State, acting upon the advice of a Council of Ministers. As already mentioned, the Prime Minister is Sheikh Abdullah, a Moslem, and there are six other Ministers, of whom four are Moslems and two Hindus. There is a High Court for the State, consisting of a Chief Justice and two other judges, the Chief Justice and one of the judges being members of the English bar. There is not yet an elected legislature in Kashmir. The constituent assembly already mentioned is intended mainly to supply this deficiency.

The provisional or interim government mentioned above has been functioning in Kashmir from the beginning of March 1948. During those three years, it has done a good deal of useful work notwithstanding the unsettled conditions created by the tribal and Pakistan invasions. One of its most important reforms has been the abolition of absentee landlordism. Briefly, landlords owning more than about twenty acres of agricultural land have to surrender the excess to the actual tiller of the soil in return for compensation to be paid to the landlord by the government. The tiller becomes the full owner of the land transferred to him. The result of this reform has been radically

to change the outlook of the peasant, to increase substantially his income from the land, and to encourage him to adopt improved methods of cultivation, thereby raising his standard of living. It should be noted that the peasantry forms 97 per cent of the population. The reform is being effected gradually and without any violent transition. It is in line with similar reforms now in progress in India.

Moreover, in the two years 1948 to 1950, nearly 30,000 acres of waste land were allotted to landless peasants. Efforts are in progress to make available a further area of about 20,000 acres in the Kashmir Valley. As a result of these measures, an increase of about 10,000 tons in the annual production of food grains in the State is anticipated.

An Irrigation Department has been set up, and several old and new canals have been either restored or constructed, much new land thereby being brought under cultivation.

In the educational sphere, the Jammu and Kashmir University was established in 1948 and has been functioning successfully ever since. Two new colleges have been opened in the interior of the State to serve rural and backward areas, and a special college for girls has been started in Srinagar, which is the summer capital of the State. Infant schools, based on an Indianized form of the Montessori system, have been reorganized at sixty different places.

Several crores of rupees have already been spent by the State, in addition to 42 lakhs of rupees—about \$800,000—given by the Government of India, on the relief and rehabilitation of refugees.

To relieve agriculturists and other workers from the burden of chronic indebtedness, Debt Conciliation Boards have been set up to scale down debts and to wipe them out where one and one-half times the principal has already been paid.

A large State Transport Department has been created, owning a fleet of about 500 vehicles, thus removing the danger of shortage of essential commodities which lack of transport at one time threatened.

Considerable progress has been made in promoting public health, industries, co-operatives, rationing through co-operative societies, and so on.

I have thought it desirable to give this picture of general conditions based on one of the latest reports of the Kashmir Government in order to show that, in spite of the difficulties created by the tribal and Pakistan invasions, the present regime in Kashmir has been functioning with credit during the last three years. My intention also is to emphasize the human aspect of the problem. The people of Kashmir are not mere chattels to be disposed of according to a rigid formula; their future must be decided in their own interests and in accordance with their own desires. The population of the State is gradually settling down to some measure of peace and order. Any neutral visitor to Kashmir—and there are many such during the tourist season—can satisfy himself as to the facts of the situation.

Let me now turn to Sir Owen Dixon's recommendations in the final paragraphs of his report:

"The whole question has now been thoroughly discussed by the parties with the Security Council, the Commission and myself, and the possible methods of settlement have been exhaustively investigated. It is perhaps best that the initiative should now pass back to the parties. At all events I am not myself prepared to recommend any further course of action on the part of the Security Council for the purpose of assisting the parties to settle between them how the State of Jammu and Kashmir is to be disposed of...I recommend that the Security Council should press the parties to reduce the military strength holding the cease-fire line to the normal protection of a peace-time frontier" [*S/1791, paras. 104 and 107*].

In connexion with the last recommendation, I may mention that India has already reduced its forces by 20 to 25 per cent, without waiting for any corresponding reduction by Pakistan. May I point out that under the resolutions of the United Nations Commission for India and Pakistan adopted in

August 1948 and January 1949, which both parties accepted, it was for Pakistan to begin to withdraw its army first and only thereafter was India to begin to reduce its own forces. Nevertheless, as I have said, India has begun the process without waiting for Pakistan, and India is prepared to continue the process if Pakistan, on its part, will withdraw its army from the State.

When, as I have tried to show, the State is gradually settling down to some kind of ordered life, the Security Council might do worse than to follow Sir Owen Dixon's advice and let the initiative now pass back to the parties. Within the last few days, the Governments of India and Pakistan have signed a trade agreement in spite of great difficulties; left to themselves, they may be expected in due course to come to agreement in other matters also. The representative of the United States has in his speech [532nd meeting] emphasized his Government's firm belief that "there can be no real and lasting settlement of the Kashmir dispute which is not acceptable to both parties." In this connexion, members of the Security Council will be interested in a Press report dated 20 February from Karachi, to the effect that Sardar Ibrahim Khan, former head of the so-called *Azad* Kashmir Government, has expressed the view that all Indo-Pakistan disputes, including Kashmir, could be settled by India and Pakistan between themselves by mutual discussion.

Nevertheless, departing from these recommendations of Sir Owen Dixon, the United Kingdom and United States of America have placed before us the draft resolution contained in document S/2017, dated 21 February 1951. It is not necessary for me to deal with that draft resolution in any great detail. The preamble refers to a proposal to convene a constituent assembly for Kashmir. I have already explained the purpose of the constituent assembly—namely, to frame a constitution for Kashmir and, in particular, to provide an elected legislature to which the executive could be made responsible. It is not meant to come in the way of the Security Council.

For the rest, my government is wholly unable to accept the draft resolution, because in many respects it runs counter to

decisions previously taken by the United Nations Commission with the agreement of the parties. Let me mention one instance. I have already given the Security Council a brief account of the situation created by the invasion of the State, first by tribesmen and then by Pakistan. In spite of that situation and in the hope of securing a peaceful settlement, India agreed, upon certain assurances, to two resolutions of the Commission—one of August 1948 and the other of January 1949. Pakistan also agreed to them ultimately. I shall now show how the present draft resolution departs materially from the provisions of those resolutions.

Under the resolution of August 1948, Pakistan was to withdraw its troops completely from the State and India was to withdraw the bulk of its forces—not all its forces, but the bulk of its forces—a small portion being left in the State to ensure its security. To remove any suspicion that even this small portion might interfere with the freedom of the plebiscite, the following provision was made in the resolution of January 1949: “...the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.”

India was and is prepared to take, in consultation with the Plebiscite Administrator, all measures that may be necessary to prevent the presence of any such forces from interfering with the freedom of the plebiscite. This could be done in a number of ways—for example, stationing the forces in localities outside centres of civilian population and confining them to barracks during the plebiscite.

Thus, these two resolutions made provision not merely for the withdrawal or reduction of armed forces but also for the freedom of the plebiscite consistently with the requirements of security. Members of the Council will please remember that these resolutions were agreed to by all the parties. Nevertheless Sir Owen Dixon was somehow led to make proposals for demilitarization which seriously departed from the above agreed scheme. At one point, he asked for the withdrawal of the forces of the regular Indian Army, although the above resolutions

never contemplated its complete withdrawal. At another point, he suggested various purposes for which Pakistan troops might be retained in the State, although the above resolutions clearly provided for their complete withdrawal. One of these purposes was said to be to ensure the fulfilment of the obligation of Pakistan not to permit tribesmen or other raiders to enter the Kashmir Valley. Considering that the Pakistan Army moved into the State in order to give "more direct assistance" to the tribesmen, members of the Council can easily imagine how the alleged purpose was likely to be fulfilled.

I may perhaps point out at this stage that the obligation of Pakistan under the resolution of August 1948 was to secure the withdrawal of tribesmen from the entire State, and not merely to prevent their entry into the Kashmir Valley. The draft resolution before the Security Council instructs the new United Nations representative to effect demilitarization on the basis of Sir Owen Dixon's proposals with such modifications as the new representative may deem advisable. As I have already pointed out, these proposals go back on the agreed resolutions of August 1948 and January 1949—the changes being all in favour of the Pakistan Army which had entered the State in contravention of international law and against the Indian Army which had lawfully entered the State to repel invasion. My Government is wholly unable to accept these proposals as a basis, nor can it agree to vest a new representative with the power of decision in so vital a matter.

I shall not discuss the details of the new draft resolution any further. It picks out certain parts of previous resolutions, leaving out other parts to which we have throughout attached the greatest importance and which were specifically accepted by the United Nations Commission for India and Pakistan. We are not prepared to go back on all that has been done by the United Nations Commission, and subsequently, with our agreement.

We are wholly unable to accept any entry of foreign troops in the State or in any other part of India. In view of the provision made by the resolutions of August 1948 and January 1949, there is no occasion for the use of foreign troops or of

special local levies recruited by any outside agency. Nor, in view of the detailed provisions contained in the resolution of January 1949 to ensure a fair and impartial plebiscite, can we accept any supersession of the lawful government of the State or any interference with its normal functions.

Let me read out some of the detailed provisions contained in the resolution of January 1949:

"The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.

"...the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.

"All civil and military authorities within the State and the principal political elements of the State will be required to co-operate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.

"All authorities within the State of Jammu and Kashmir will undertake to ensure, in collaboration with the Plebiscite Administrator, that:

"(a) There is no threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite;

"(b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste or party, shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of the Press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit;

"(c) All political prisoners are released;

"(d) Minorities in all parts of the State are accorded adequate protection; and

"(e) There is no victimization."

These are some of the detailed provisions contained in the resolution of January 1949, provisions which were accepted by both parties.

It was clearly stated on behalf of the United Nations Commission that the Plebiscite Administrator could be expected to act reasonably and that the Commission did not intend that he should usurp the functions of the State in the field of normal administration and of law and order. The sovereignty of the entire State must necessarily vest in the lawful government of the State and because of this, it was stipulated that the Plebiscite Administrator should be formally appointed by the State Government. All this was recognized by the United Nations Commission.

There is a tendency in certain quarters to assume that this is just a dispute between India and Pakistan, and that the views of the lawful government of Kashmir need not be considered. This is a mistaken assumption. As I have already said, the authority of the Government of India over the Government of Kashmir is limited to certain subjects; outside that sphere, it can only advise and cannot impose any decision.

While the draft resolution before us refers to the proposal for the convening of a Constituent Assembly, it makes no mention of the persistent and ever-mounting propaganda in Pakistan threatening war and urging a *jihad*, or holy war. Both India and Pakistan are mildly exhorted in the draft resolution to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations. Surely the sponsors of the draft resolution will agree that the constant incitement to war based on an appeal to bigotry and religious passion is bound to vitiate the atmosphere for negotiation.

While my government stands by all its commitments, it insists that all the commitments made to India contained in the resolutions of the United Nations Commission for India and

Pakistan and the connected assurances must also be honoured. The present draft resolution unsettles what has already been settled, and, if passed, would amount to a repudiation by the Security Council of the United Nations Commission's decisions previously made with the agreement of the parties, and of the Commission's assurances given to India.

This is all I have to say at the present stage, but I shall, of course, reserve the right to speak again in case any fresh points arise.

129. Text of the Speech made by Sir Mohammad Zafrulla Khan (Pakistan) in the Security Council Meeting No. 534 held on 6 March 1951

As the representative of India observed in the opening part of his statement to the Council on 1 March [533rd meeting], the question of Kashmir has been before the Security Council on several occasions already. Unfortunately, very little progress has been made towards its peaceful settlement.

On this occasion, the task that Sir Benegal Rau set himself was comparatively easy. The conclusion that he sought to press upon the attention of the Council was that the Council need do no more than accept Sir Owen Dixon's suggestion that the matter now be left to discussion and settlement between the parties themselves. In other words, the objective he set himself—a part of it, at least—was that the Security Council should be persuaded that the best thing to do now with regard to Kashmir is to do nothing.

As I have said, his task was easy. All that was necessary for him to do was to put forward certain considerations which would show that a peaceful settlement was difficult, at least through the efforts of the Security Council, and that therefore the problem should be left to look after itself.

Of course, the danger there is that a problem left to look after itself may run wild, and when it runs wild no one can predict where it might run and what it might bring in its wake.

My task is a little more difficult. My task is to try to convince the Security Council that the situation is of such gravity that it requires earnest, vigorous and speedy action if it

is to be prevented from breaking out in a manner that might rule out peaceful settlement. My task further is to indicate to what extent the efforts hitherto made have been successful, where they have got stuck, and what is needed to speed the matter toward a peaceful settlement.

The whole argument of my esteemed friend, the representative of India, rested on the absolutely untenable assumption that India is in lawful occupation of Kashmir. His argument, such as it was, and all its implications and insinuations, revolved around that assumption. The stark fact is that India's occupation of Kashmir was brought about as the result of a conspiracy between the Hindu Ruler of Kashmir and the Hindu leaders of India, the victims of that conspiracy being the people of Kashmir. This conspiracy was hatched during the spring and summer of 1947 when some of the most prominent Hindu leaders visited Kashmir and persuaded the Maharaja to accept their point of view. I shall reinforce this part of my submission to the Council by quoting a statement by Pandit Prem Nath Bazaz, a Kashmiri leader who, because he could not see eye to eye with a good many of the policies of the Maharaja, and later with the view of the Maharaja over accession, had to spend a fairly long period in gaol. He has since been released. The quotations that I propose to make at this stage and later have been published in a pamphlet called *The Truth about Kashmir* by the Kashmir Democratic Union of Delhi. He states:

"From the outside Congress leaders approached the Maharaja and, in the name of Hinduism and ancient Indian culture, appealed to him to decide to accede to India. One after the other many Congress stalwarts, including Acharya Kripalani, the then Rashtrapati, visited Kashmir with that mission. The highest among them, Mahatma Gandhi, also visited Kashmir.

"The Mahatma stayed in Srinagar for a few days, when he had long interviews with the Maharaja, as well as with nationalist leaders and officials. Immediately after the Mahatma left the State, drastic changes came over the

Maharaja's policy, particularly regarding the issue of accession. Ramchandra Kak, the then Premier, who was for his own reasons a supporter of Kashmir's independence, was thrown out and was replaced by a well known communalist and reactionary, Dogra Rajput septuagenarian Major General Janak Singh. All papers advocating Kashmir's accession to Pakistan or its independence were either stopped or put under a pre-censorship ban. Leaders and political workers who were preaching pro-Pakistan views or were opposing accession to India began to be gagged or arrested. This was in August 1947, long before the tribesmen entered Kashmir."

That is a Hindu leader speaking, and he is speaking from India.

The Maharaja entered upon that course because he well knew that the vast majority of his people—and it is well known that the Muslims constitute an over-all majority of some 78 per cent of the population of the State of Jammu and Kashmir—were anxious that the State should accede to Pakistan, and were bitterly opposed to accession to India.

Shortly after the terrible slaughters in India, which accompanied partition, the Maharaja set upon a course of action whereby, in the words of the special correspondent of *The Times* of London published in its issue of 10 October 1948, "in the remaining Dogra area, 237,000 Muslims were systematically exterminated, unless they escaped to Pakistan along the border, by all the forces of the Dogra State headed by the Maharaja in person and aided by Hindus and Sikhs". The Maharaja was encouraged to do that by what had already happened in another State which, so far as the composition of its population was concerned, was in similar straits.

In the case of Kapurthala, one of the Punjab States contiguous to Muslim majority areas in the Punjab, where the population was 63 per cent Muslim, not one Muslim was left in the course of a few weeks. They were all either massacred or driven out of the State by force. That is how the population composition of the State was converted from a majority of

Muslims into a totality of non-Muslims. There was no reason why if the Maharaja of Kashmir was similarly minded, he could not achieve the same end, and thus clear the way for accession to India.

When this became clear, agitation started in the State and large-scale repression was undertaken. I shall quote again from Prem Nath Bazaz, who says:

"Restlessness was universal. In Punch, where thousands of demobilized Muslim veterans live, an open armed rebellion broke out against the Maharaja and his administration. The rebellion spread rapidly to the adjoining area of Mirpur, where war veterans also lived in large numbers. Instead of realizing what he had done, the Maharaja, egged on by Congress leaders and his new counsellors, dispatched the whole of the Dogra Army to quell the disturbances, or, as one colonel put it, to reconquer the area. The army perpetrated unheard of atrocities on the people of Punch. Whole villages were burned down and innocent people were massacred. Reports reaching Srinagar were not allowed to be published in the Press. No official reports were issued to allay the fears of the public. This happened in September and the tribesmen did not enter the State before 23 October 1947."

That is the testimony of a Kashmiri, a Hindu Kashmiri. He then proceeds a little later with the following statement:

"With the consultation of Congress leaders"—and this means leaders of the Indian National Congress—"the Maharaja now appointed a notorious anti-Pakistani as his Prime Minister. Only four hours after he took charge, Mr. Meher Chand Mahajan, the new Prime Minister, made, in a press conference, injudicious and irresponsible statements, in utter disregard of public opinion, condemning Pakistan and all those who supported Kashmir's accession to that dominion. The result was more disturbances in the valley and chaos in Punch and the adjoining areas. While widespread disturbances were taking place inside the State,

Muslims outside could not keep silent. Many responsible Pakistani leaders warned the Maharaja not to take the contemplated ruinous step which it was quite evident he was determined to take. The Premier of the Northwest Frontier Province, who is a Kashmiri by descent, implored and advised the Maharaja to be farsighted. Even the rulers of the frontier district, such as the Rajahs of Hunza and Nagar, warned him of the disastrous consequences that his action would bring about. Hundreds of telegrams poured into the Royal Palace from all over the State, from leaders great and small, from organizations big and little, from institutions important and unimportant, unanimously praying him to look ahead before jumping. But all this fell on deaf ears."

That being the state of affairs in Kashmir where the Ruler at the head of his Dogra forces undertook in person to quell and crush this movement for liberation, which had spontaneously started in the State, was it to be wondered at that the sympathy and the sentiments of the Muslim population of Pakistan should be deeply stirred and aroused?

On previous occasions the same thing had happened. During the 1930's, when a liberation movement, or a movement for constitutional freedom, had been undertaken in Kashmir, as many as 30,000 Muslims from the Punjab had gone to gaol in their effort to assist their Muslim brethren in their struggle to obtain elementary human rights.

I need not, here and at this stage, go over again the kind of tyranny that the Muslims of the State had suffered for an exact hundred years under the domination of the dynasty of this particular Maharaja.

The people of Punch, having started this liberation movement, were able, within a very few days, to rout the Maharaja's forces. And his forces being scattered, the Maharaja was compelled to leave his capital of Srinagar. It was in that state of affairs, when his authority over the greater part of the State of Kashmir had been set aside and his armed forces had been scattered, and he himself had been forced to flee from the capital of Kashmir to Jammu, the capital of Jammu Province, that he wrote that letter to Lord Mountbatten, then

Viceroy of India, which is claimed as the legal title of India to the occupation of Kashmir.

I have said that the whole of this business was a conspiracy. I have drawn attention to what happened between prominent Congress leaders and the Maharaja. The sequel of events speaks eloquently as to what must have happened behind the scenes between the Maharaja and the Government of India. Here are two significant facts. The first is that this letter was written from Jammu on 26 October. The reply is dated 27 October, from Lord Mountbatten. There is nothing very surprising in that. But what is surprising is that a large number of airborne troops had already occupied portions of the State on the morning of 27 October. Those members of the Council who may claim experience in these matters, will be able to judge how much preparation must have preceded an operation of that kind. The Maharaja asks for military assistance on 26 October. The next morning, as a result of airborne operations over high ranges of mountains, portions of the State had been occupied by Indian armed forces. And it is pretended—and the Security Council is sought to be persuaded to believe—that all this had happened as a result of the Maharaja's appeal for armed assistance in order to quell what are described as disturbances in the State. There could be no more eloquent proof of the fact that the whole thing was engineered as the result of a conspiracy.

The second significant factor, in this connexion, is the position of Sheikh Abdulla. Sheikh Abdulla was a political leader in Kashmir whose political views were in sympathy and support of the Indian National Congress. He had long acted as the agent of the Indian National Congress in Kashmir. At the time when agitation in the State started against the Maharaja's design to accede to India, Sheikh Abdulla was in gaol under a long sentence of imprisonment on a charge of treason against the Maharaja. I have on previous occasions conceded that it was an honourable kind of incarceration that he was suffering. But here is the significance. At the height of this agitation against the Maharaja, Sheikh Abdulla was released. His release was not part of a general gaol delivery of political

offenders, because the Maharaja suddenly bethought himself that he had better have the support of the political leaders of the State in his contemplated action. Other leaders, particularly those who did not see eye to eye with the Maharaja over this matter, continued to remain in gaol. Sheikh Abdulla was selected for release. Again, in the words of Pandit Prem Nath Bazaz, here is what preceded this release:

"Sheikh Abdulla was then in gaol as a result of his unsuccessful 'Quit Kashmir' adventure. The trend of public opinion outside made him worried and restless. He wrote a letter to a friend in Jammu, which was published in the Congress press, praying to the Maharaja that he should neither remain independent nor join Pakistan, but should declare the State's accession to India forthwith. Sheikh Abdulla offered the unequivocal support of his National Conference to such a declaration."

The release was followed by liberty to Sheikh Abdulla to carry on his efforts in support of the State's accession to India. I shall quote again from Pandit Prem Nath Bazaz:

"Sheikh Abdulla was not only released, he was also encouraged and subsidized by the Maharaja's Government to hold public meetings and processions. Orders banning processions and meetings were, however, strictly applied in the case of all other political parties which refused to support the Maharaja's new policy."

There is a significant aspect of this matter. Here is this man; he is not *persona grata* with the Maharaja. In fact, having been sentenced to a long term of imprisonment because he had demanded that the Maharaja quit Kashmir, he is not only released but he becomes a particular favourite. In the letter that the Maharaja wrote to Lord Mountbatten asking for assistance, there occurs this very significant sentence as an inducement to the Government of India to offer military aid:

"I may also inform Your Excellency's Government that it is my intention at once to set up an interim government

and to ask Sheikh Abdulla to carry the responsibilities in this emergency with my Prime Minister."

How did the Maharaja know this would come as a welcome gesture to Lord Mountbatten and to his government unless the matter had already been arranged between the two, that is, between the Government of India and the Maharaja, that military aid would be forthcoming to Sheikh Abdulla, whose politics, as I have said, had for long been in accord with those of the Indian National Congress, who was a personal friend of the Prime Minister of India, and who, when he was being tried for treason against the Maharaja, before the partition, sought to be defended by the Prime Minister of India to be? Pandit Nehru then rushed to Srinagar on the plea that he wanted to defend his friend against the charge of treason brought against him. Under the Maharaja's orders, he was put into a motor-car, taken out of the State and put back into the Punjab. That man was not only selected to be associated with the administration, but his contemplated selection was put forward to the Government of India as an inducement to obtain military aid from them. And not only that. In the reply of Lord Mountbatten, this matter is noted with satisfaction. Lord Mountbatten, often stating that, consistent with the policy that in the case of any State where the issue of accession had been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State, went on to say:

"I note with satisfaction that Your Highness has decided to invite Sheikh Abdulla to form an interim government to work with your Prime Minister."

I submit that these are significant facts, that the whole thing had been settled as part of a scheme to suppress the liberation movement in Kashmir and to over-rule those who might wish to raise their voice in favour of the State's accession to Pakistan. By this promise which the Maharaja conveyed to Lord Mountbatten, Sheikh Abdulla obtained his *quid pro quo*. While this was going on, Indian troops had arrived and the movement

continued. In the meantime, three days before the Maharaja wrote his letter, the tribal incursion had taken place and the struggle, reinforced by this, went on. Eventually the *Azad Kashmir Government* was organized. The *Azad Kashmir* forces were organized and withstood successfully the onslaught of the Indian Army. In these circumstances, it is not surprising that the representative of India has chosen to malign these brave fighters for the freedom of Kashmir and their government as subversive forces and authorities. But subversive of whom? Of the Maharajas? Of a century-long oppression? This, from the representative of a State which after a long and honourable struggle had only a few months previously succeeded in winning and establishing its own independence, is somewhat ironic. What was Sheikh Abdulla doing in the meantime after he had come into power?

Prem Nath Bazaz, in the course of that statement to which I have already drawn attention, comments on the fact that Nehru, the Prime Minister of India, had said that Abdulla and his party were not put in power in Kashmir from the air. He analyses that statement in detail and gives cogent reasons to show that they were put in power from the air. He concludes this aspect of the matter thus:

"In view of these solid facts, it is clearly wrong to state that the Nationalists were given power because they were the most representative political body of the State's people. The truth is that they were put there from the air."

To use Pandit Nehru's phrase, "They"—that is the National Government—"represented the popular organization and remained there because of their own strength and not because of legal sanctions alone".

He conveniently forgot the one factor which is solely responsible for the existence of the Abdulla Government. That factor is the occupation of the State by a huge Indian Army.

"But so long as tens of thousands of Indian soldiers are stationed in every nook and corner of Kashmir to back the Abdulla Government, the unarmed people of Kashmir cannot do anything to push out that government."

That is to say, his government is being maintained in power by India's military forces, and it cannot be maintained that it is a government based upon popular assent.

As early as October, 1947, the Pakistan Government made repeated efforts to reach a settlement with the Government of India wherein the people of Kashmir could settle their future through a plebiscite. Various suggestions were made which have been detailed before the Security Council at previous meetings and to which I need not here revert. They were not acceptable to India. India put forward counter-proposals on which I shall comment presently. They were acceptable to Pakistan and, during the last three years and a half, Pakistan, the Security Council and the United Nations Commission on India and Pakistan—and lately some of the Prime Ministers of the Commonwealth countries—have been engaged in the effort to persuade India to carry out what it had offered to do and what it had subsequently, through the Commission's resolutions of 13 August 1948 and 5 January 1949 [*S/1100*, *S/1196*], agreed to do. All these efforts have so far been without any appreciable result.

India goes on affirming over and over again its readiness—indeed, its anxiety—to honour all its commitments, to carry into effect all that it has agreed to do. But, when it comes to the doing of it, nobody who has so far had to deal with the matter can achieve any success. Failure after failure has been reported.

The latest of these declarations of willingness and readiness to carry out all that India has undertaken was made by Sir Benegal Rau in a speech before the Security Council on the first of this month [*533rd meeting*]. The earliest was contained in the telegram of the Prime Minister of India to the Prime Minister of Pakistan, dated 8 November 1947. It has been quoted *in extenso* and can be found in the records of the Security Council. I shall therefore not read out the whole of it but shall draw attention to paragraphs 10 and 11. One of the points that the Prime Minister of India was trying to meet in this telegram was the objection raised on behalf of Pakistan that a plebiscite carried out while a good portion of the State

was in the occupation of Indian military forces, and while an Indian nominee was at the head of the Kashmir administrators could give no confidence to anybody at all. This is how the telegram concludes—and I shall read first paragraph 10:

"It will thus be seen that our proposals, which we have repeatedly stated, are:

- "1. That the Government of Pakistan should publicly undertake to do its utmost to compel the raiders to withdraw from Kashmir.
- "2. That the Government of India should repeat its declaration that it will withdraw its troops from Kashmir soil as soon as the raiders have withdrawn and law and order are restored.
- "3. That the Governments of India and Pakistan should make a joint request to the United Nations to undertake a plebiscite in Kashmir at the earliest possible date."

Stopping here for a moment, I might draw the attention of the Council to the fact that the raiders have withdrawn from Kashmir; that they withdrew long ago, after agreement was reached between the two governments on the resolutions of the Commission of 13 August 1948 and 5 January 1949. Indian troops are still in occupation of Kashmir, and no practical prospect has yet appeared of a plebiscite being undertaken by the United Nations in order to determine the question of the accession of the State to India or to Pakistan.

Paragraph 11 of that telegram runs as follows:

"The above conclusions relate only to Kashmir, but it is essential, in order to restore good relations between the two Dominions, that there should be acceptance of the principle that, where the Ruler of a State does not belong to the community to which the majority of his subjects belong, and where the State has not acceded to that Dominion whose majority community is the same as the State's, the question

whether the State has finally acceded to one or the other Dominion should be ascertained by reference to the will of the people."

I stress this in order to draw the attention of the Security Council to the fact that, as early as 8 November 1947, India's position was that, in the circumstances set out in paragraph 11, no accession can take place—at any rate, it cannot be recognized—until the will of the people has been ascertained.

That was the principle on the basis of which Pakistan was willing that the question of the accession of the State to India or to Pakistan might be decided. As I have said, every effort that has since been made from any quarter to carry out what was there explicitly undertaken has so far brought no result.

India, instead of coming to the United Nations with a joint request that the plebiscite be held under the authority of the United Nations, lodged a complaint that Pakistan was assisting those who were challenging India's military occupation of Kashmir. The Security Council heard India's complaint and Pakistan's reply and came to the conclusion that the only just and democratic solution in Kashmir was a free and impartial plebiscite under the auspices of the United Nations, to determine whether Kashmir should accede to India or to Pakistan.

As to the conditions of the plebiscite, everyone who spoke in the Security Council gave expression to what, in his opinion, would constitute the minimum conditions which alone could guarantee a fair and impartial plebiscite. But the matter was set out in the fewest possible words in the statement of the representative of France [235th meeting], to which I draw attention:

"Personally, I would suggest three conditions"—in connexion with the plebiscite—:

- "1. The withdrawal of foreign troops from the State of Kashmir;
- "2. The return of the inhabitants, irrespective of their race—Hindu or Moslem—to their places of origin in that State;

- "3. The establishment of a free administration which would not exert pressure on the population and would give absolute guarantees of a free vote."

Similar views were expressed by the majority of the members of the Security Council. These views were crystallized in a draft resolution which was brought before the Council by its President on 6 February 1948 [S/667]. This draft resolution was accepted by Pakistan and was rejected by India—thus, at that very early date, setting the pattern for the many subsequent occasions on which proposals for carrying out a free and impartial plebiscite, proposals made by eminent and impartial authorities, have been accepted by Pakistan and rejected by India.

While the Security Council was continuing its efforts to bring about a solution by means of a free and impartial plebiscite, India was making a determined bid to conquer the rest of the State, in spite of the Security Council resolution [S/651] of 17 January 1948 [229th meeting] which

"Calls upon both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation, and to refrain from making any statement and from doing or causing to be done or permitting any acts which might aggregate the situation."

In spite of this appeal, India was going forward rapidly in order to achieve not a peaceful settlement of the problem, but a military settlement through its armed forces. It poured troops into Kashmir in an effort to crush the liberation movement and to encircle Pakistan. At the same time—that is to say, during April 1948, which synchronizes with these events—India tried, in another field, to do mortal injury to Pakistan by withholding the waters of common rivers from Pakistan and thus putting the whole agricultural economy of West Pakistan into jeopardy.

On 21 April 1948, the Security Council eventually adopted a resolution [S/726]—no longer the resolution which was

presented on 6 February 1948, but a resolution in several respects watered down as compared with the resolution of 6 February, in the hope and expectation that it might become acceptable to India. India rejected that resolution of 21 April 1948 and went on with its military campaign in Kashmir.

The representative of India has referred to a recommendation of the Commander-in-Chief of Pakistan made about this time, and he has quoted an extract from it, which is torn out of its context, in an attempt to show that the object of the entry of Pakistan troops into *Azad* Kashmir areas which had already been liberated from the Maharajah's authority was to render more effective assistance to the tribesmen. I should like to read the whole passage from which that extract was taken, so that the Council may see the whole picture, as it then emerged, of the military situation in its proper setting. This is from an appraisal submitted by Sir Douglas Gracey, the then Commander-in-Chief of the Pakistan forces, to the Pakistan Government. I quote the summary of his deductions:

- “(a) That a general offensive is being planned by the Indian Army in the north and the south is a certainty. Their objectives are likely to be as follows: south: (i) Bhimbar-Mirpur, (ii) Punch; north: Muzaffarabad-Kohala.
- “(b) Judging from what has happened in Rajaori, an advance by the Indian Army in any of the above areas is almost certain to create a big refugee problem for Pakistan, which is already saturated. Refugees will be an extremely serious strain on the civil administration and a heavy drain on the country's economic and financial resources. From this point of view alone it is imperative that the Indian Army is prevented from gaining any of the above objectives.
- “(c) Occupation of Bhimbar and Mirpur will give India the strategic advantage of having crossed two major obstacles, *i.e.*, the Rivers Ravi and Chenab, and of coming right up to the Pakistan border, thereby sitting on our doorsteps, threatening the Jhelum Bridge which is so vital for us, and getting further opportunities for

intrigue, etc. It would also give him the control of the Mangla headworks, thus placing the irrigation in Jhelum and other districts at their mercy." (Those headworks are situated inside the boundary of the Kashmir State but belong to Pakistan.)

- "(d) Occupation of Punch by the Indian Army is certain to have a most serious effect on the morale of the many Punchis in the Pakistan Army, and this in turn will adversely affect the morale of other troops. Desertions will undoubtedly increase and discipline will receive a big setback.
- "(e) The loss of Muzaffarabad or Kohala will, broadly speaking, have the most far-reaching effect on the security of Pakistan. It would enable the Indian Army to secure the rear gateway to Pakistan through which it can march in at any time it wishes to do so, without any major obstacle such as the River Jhelum to stand in its way. It will encourage subversive elements such as Khan Abdul Ghaffar Khan and his party, Ipi, and Afghanistan; and it will certainly cause extreme panic and alarm in some of the adjoining districts of the North West Frontier Province and Punjab resulting in the mass exodus of population which will create an insoluble refugee problem within Pakistan itself.
- "(f) An easy victory of the Indian Army in any of the above-mentioned sectors, particularly in the Muzaffarabad area, is almost certain to arouse the anger of the tribesmen against Pakistan for its failure to render them more direct assistance, and might well cause them to turn against Pakistan."

That was the paragraph from which the representative of India quoted. This is the setting from which his quotation was taken. The appraisal continued:

"Recommendations: 7. If Pakistan is not to face another serious refugee problem with about 2,750,000 people

uprooted from their homes; if India is not to be allowed to sit on the doorsteps of Pakistan to the rear and on the flank at liberty to enter at its will and pleasure; if civilian and military morale is not to be affected to a dangerous extent; and if subversive political forces are not to be encouraged and let loose within Pakistan itself, it is imperative that the Indian Army is not allowed to advance beyond the general line Uri-Punch-Naoshera" [464th meeting].

The situation was this. As I have said, in spite of the appeal of the Security Council conveyed to both sides in the resolution of 17 January, in spite of the continuing efforts of the Security Council to find the basis of a peaceful settlement and for the holding of a free and impartial plebiscite, India persisted in its efforts to bring about a military solution, not only by occupation of the whole of the State of Jammu and Kashmir, but by the encirclement of Pakistan. In those circumstances, Pakistan decided to send its troops in to hold certain defensive lines, and more than that at no stage did those troops attempt. As I said on the last occasion when I had the honour to address the Security Council [464th meeting], anybody responsible for the security of Pakistan who did not do at least that should have impeached and executed.

This is what India has throughout described as Pakistan's aggression. Another aspect of Pakistan's aggression to which attention is sometimes drawn is that the tribesmen succeeded in proceeding through Pakistan to Kashmir and took a hand in the struggle that was going on there. In that connexion I would beg permission again to quote from Pandit Prem Nath Bazaz, and as I have said before, the significant thing is that Pandit Bazaz is a Hindu leader of Kashmir who has suffered for his political views and who is now speaking from India:

"When India complains that the tribesmen were aggressors, it is the proverbial kettle calling the pot black. To pronounce a judgment with regard to aggression, one must weigh everything in the balance. To Pandit Nehru and his supporters, aggression begins from the moment the tribesmen entered Kashmir; whatever happened before that was,

according to them, affection and friendship for the State and its people. But if aggression means encroachment upon the rights of the people, it is evident that aggression began in Kashmir as early as the end of July, when the Congress leaders were successful in influencing the Maharaja to change his policy of neutrality in the matter of accession and adopt a course in total disregard of the clear will of the overwhelming majority of the State's population. After noting all these facts, an impartial judge cannot but ask what moral or legal right had the Congress leaders and Congress Government of India to interfere with the affairs of the Muslim-majority State of Kashmir, after they had accepted the division of India on a religious basis. What right had the Maharaja to go against the manifest and declared will of the people of the State? And when the Maharaja was virtually deposed, not by the tribesmen but by his own subjects, what right had India to send its armies into the State to restore the Dogra rule and to foist an unwanted regime on the people?"

As a result of the resolution of 21 April 1948 [S/726], the United Nations Commission on India and Pakistan, appointed by the Security Council, went out to the Indo-Pakistan sub-continent and afterwards was successful in having its two resolutions of 13 August 1948 and 5 January 1949 accepted by India and Pakistan and endorsed by the Security Council. The main provisions of those two resolutions, which by their acceptance by the parties and their approval by the Security Council became an international agreement, may be summarized as follows. Firstly, that there should be a cease-fire, and a cease-fire line should be demarcated. Secondly, that there should be a truce agreement providing for the withdrawal of tribesmen and Pakistan nationals who had gone to the State for the purpose of fighting, and for the withdrawal of the Pakistan troops and the bulk of the Indian troops from the State. Thirdly, that a plebiscite should be conducted under the supervision and control of a Plebiscite Administrator, who was empowered to determine the final disposal of the remaining forces in the State.

and who was vested with all the powers he considered necessary to ensure the freedom and impartiality of the plebiscite.

Pausing here for a moment, it will be appreciated that the demilitarization of the State which has come to be the main crux of the whole matter and the principal obstacle in the way of progress being made towards the organizing and holding of the plebiscite, was, under the scheme of those two resolutions, to be carried out in two stages. After the cease-fire had been achieved and the cease-fire line had been demarcated, a truce agreement was to be entered into. The principal features of that truce agreement were to be, firstly, the withdrawal of the tribesmen and Pakistan nationals who had gone into the State for the purpose of fighting, and secondly, the withdrawal of the Pakistan troops, on the one side, and the bulk of the Indian troops, on the other side, from the State.

This was the measure of the degree of demilitarization to take place at the truce stage, but the rest was to be achieved during what is known as the plebiscite stage. In the plebiscite stage, the Plebiscite Administrator would have the power of the final disposal of the remaining forces of both sides, having due regard to the security of the State and the freedom and impartiality of the plebiscite.

There has been a tendency on occasion to stress the fact that the only demilitarization visualized in those resolutions was the withdrawal of the Pakistan armed forces and the withdrawal of the bulk of the Indian army. But that was to be during the truce stage; the rest was to be achieved during the plebiscite stage. I shall refer to that later. What would be left after the truce stage? On the *Azad* Kashmir side, the *Azad* Kashmir forces—the Pakistan forces would be withdrawn; in the Indian-occupied portion of Kashmir, the remnants of the Indian forces after the bulk had been withdrawn, the Kashmir State forces and the Kashmir State militia. Those three on the one side, and the *Azad* Kashmir forces on the other side, would be finally disposed of under the directions of the Plebiscite Administrator.

The representative of India has argued and has often implied that the disposal here mentioned in sub-paragraph 4

(a) of the resolution of 5 January 1949 is not a disposal but a mere disposition. But that it was to be a disposal in the sense that the Plebiscite Administrator would have full authority to disband, disarm and also settle dispositions with regard to the remainder, is clear from India's own insistence that the bulk of the *Azad* Kashmir forces must be disarmed and disbanded in the truce stage.

Those were to remain intact during the truce stage. Their disposal, that is to say their disbandment and the disarming of the greater part of them, could only be achieved by the Plebiscite Administrator under this power. According to the Indian view, when disposal applies to the *Azad* Kashmir forces, it means disbanding and disarming at least of the greater part, but when it applies to the remnants of the Indian forces and to the State forces and the State militia, it is to mean merely disposition in barracks. That is obviously inequitable. Nowhere was it contemplated that disposal would mean only disposition. The Plebiscite Administrator has full authority so to dispose, that is to say, disband or disarm, to station, to impose restrictions upon and to subject to discipline those forces of either side—the *Azad* Kashmir forces or the remaining Indian forces, State forces and State militia—as he considers necessary and desirable, having regard to the security of the State and the freedom of the plebiscite.

This international agreement was designed to bring about one thing—a free and impartial plebiscite—so that the question of the accession of the State to India or Pakistan could be determined. All efforts that have been made since then by the Commission itself, by the Security Council or by other authorities at the request of the Security Council, have been directed towards achieving this end. Everybody has recognized that nobody could pretend that the poll could be free if any portion of the areas concerned were occupied by the military forces of either side. Such experience as exists of plebiscites having been taken under international joint supervision reinforces this natural consideration. India is the one sole exception in that it continues to contend that a plebiscite could be held which could be claimed to be free and impartial while its forces

occupy portions of the State—the most heavily populated portions of the State—and while those portions are being administered by a nominee of the Government of India who has repeatedly stated that he is completely wedded to bringing about accession of the State to India.

Two things are essential in order to secure freedom of the poll. One necessity is complete demilitarization of the State. The second is that the Administration must in some manner or other be completely neutralized so that, if it is left in power, it is left in no position to exercise any undue influence, to utter any threat, to persuade in any manner anybody to vote in favour of accession to India when they would wish to vote for Pakistan or to persuade them to vote for accession to Pakistan when they would wish to vote for accession to India. That was the agreement.

What has been the implementation? As I stated, the cease-fire became effective 1 January 1949, and subsequently a cease-fire line was demarcated in July 1949. The withdrawal of the tribesmen and Pakistan nationals who had gone into the State for the purpose of fighting was to be part of the truce stage. No truce agreement has yet been arrived at. Nevertheless, the tribesmen have been persuaded to withdraw and the Pakistan volunteers also have withdrawn from the *Azad* Kashmir areas; so that part of the second part of the resolution has already been carried into effect.

But a deadlock has ensued over the second part of the second provision, that is, the provision relating to the withdrawal of Pakistan troops and the bulk of Indian forces. It is this deadlock that has not allowed any progress to be made towards a peaceful settlement during the last two years. This deadlock is due to the repeated refusal of the Government of India to withdraw the bulk of its troops from Kashmir, as required by the resolution and the agreement.

It is true that repeatedly India goes on declaring its acceptance and affirmation of this obligation. But beyond that it will not go. The latest affirmation was in the speech by the representative of India on 1 March before the Security Council. But India will take no steps towards fulfilling the obligation which

it repeatedly affirms it accepts. All efforts to persuade the Government of India to carry out its obligations have proved futile.

This is the central problem which faces the Security Council. I would beg the indulgence of the Council to deal with it at some length. The Indian technique has been to go on affirming the acceptance of these obligations. Indeed, it can do little else. They are there in black and white, endorsed by the Security Council. India refuses to carry them out. It either insists on some new condition which does not apply and has not been accepted by the parties, raises irrelevant issues or puts impossible constructions upon the language of the agreement, and in one manner or another it continues to evade its obligations.

It would suffice to give one example of this technique in some detail. As I have already attempted to make clear, the disposal of the *Azad* Kashmir forces along with the State forces and the State militia is the responsibility of the Plebiscite Administrator to be carried into effect during the plebiscite stage. During the truce stage the *Azad* Kashmir forces are to be left intact. That is the agreement. This was fully known to the Government of India and, to start with, was fully accepted by it.

In the course of its discussions with the Government of India in August 1948, the Commission pointed out that, according to the provisions of the Commission's resolution which was not accepted until December—at that time it was only in the stage of clarification—"limited Government of India forces would remain and, on the other side, only the *Azad* people would remain in their present positions". I refer to the first interim report of the United Nations Commission for India and Pakistan, document S/1100, dated 22 November 1948, annex 12.

This was the discussion between the Prime Minister of India and his advisers and the members of the Commission in an attempt to get a clarification of the resolution of 13 August 1948. In answer to the apprehension expressed by the Prime

Minister of India that Pakistan, being much nearer to the cease-fire line once it was established, could commit aggression against Kashmir more easily than India could contravene the cease-fire, one of the members of the Commission representing Czechoslovakia "replied that the Commission had been quite aware of this danger, but it had tried to strike a military balance."

"The Commission felt that if the two governments could be brought together, this danger of a sudden incursion would be removed. Moreover, he pointed out that limited Government of India forces would remain and that, on the other side, only the *Azad* forces would remain in their present positions. Should the eventuality envisaged by the Prime Minister occur, the whole weight of the United Nations would be turned against Pakistan."

Here was a very clear understanding at the very outset that the *Azad* Kashmir forces would remain intact during the truce stage and that during that stage—or as a result of the truce agreement—what would happen would be that a small portion of the Indian forces would remain on the Indian-occupied side plus, of course, the State forces and the State militia and, on the other side, there would be only the *Azad* forces.

In its discussions with the Pakistan Government also, the Commission took the same line, and in its letter of 19 September 1948 addressed to me as Foreign Minister of Pakistan, it stated the following, and I quote from paragraph 108 of the first interim report of the United Nations Commission for India and Pakistan [S/1100]:

"Moreover, the Commission agrees that it will be anxious to reduce the truce period to a minimum and that the resolution does not contemplate the disarmament or disbanding of *Azad* Kashmir forces."

At that time what subsequently became the resolution of 5 January 1949 had not yet been drafted. That is why this writer states that this resolution—that is to say, the resolution

of 13 August 1948 which deals with the truce stage—"does not contemplate the disarmament or disbanding of *Azad* Kashmir forces".

In the discussions which the Prime Minister of India had with the Commission in December 1948, before accepting the January 1949 resolution he himself referred to the fact that the *Azad* Kashmir forces "ran into tens of thousands". I refer to the second interim report of the United Nations Commission for India and Pakistan, document S/1196, dated 10 January 1949, annex 4, *aide-memoire* 1:

"The Prime Minister"—that is to say, the Prime Minister of India—"drew attention to the fact that the *Azad* Kashmir forces which had been armed and equipped by Pakistan and were under the operational command of Pakistan ran into tens of thousands."

Thus the Government of India was fully aware of the position regarding the *Azad* Kashmir forces before it accepted the international agreement, and the agreement itself is clear beyond any suspicion of doubt with regard to what was intended. This position was not only within the knowledge of India and accepted by it when it accepted the resolution, but its representatives themselves stated subsequently in explanation of the resolution that these forces were not to be disbanded during the truce period when the bulk of the Indian forces had to be withdrawn.

This was explicitly recognized by the Government of India in the letter of Sir Girja Shanker Bajpai, dated 18 February 1949 and addressed to the Commission. I refer the third interim report of the Commission dated 9 December 1949, the text of which is contained in document S/1430, annex 7. Paragraph 3 of this letter states:

"The disarming of *Azad* forces is really a matter of chronology. First, there must be a cease-fire and, after that, a truce as envisaged in parts I and II of the Commission's resolution of 13 August 1948. After that, the condition precedent to arrangements for the holding of a plebiscite is

the creation of conditions in which Kashmir nationals can return to the area now in the occupation of *Azad* Kashmir forces. So far as non-Muslims are concerned, such a movement will not take place until large-scale disarming of these forces has been carried out."

India itself clearly accepted the position that it was after the truce stage that large-scale disarming and disbanding of the *Azad* forces was to take place. The position is again set out very clearly in a letter which the Commission wrote to the Government of India on 14 March 1949. I refer to the Commission's third interim report, annex 12. In paragraph 2 the Commission states:

"In the course of the conversations last August the Commission explained to the Government of Pakistan that in its view a 'military balance' would exist in the State of Jammu and Kashmir during the truce period in the sense and to the extent that the resolution of 13 August did not call for the disarming or disbanding of the *Azad* Kashmir forces which the Commission understood to number approximately thirty-five battalions."

Nothing could be clearer than that. Notwithstanding these clear and explicit understandings of the position and the acceptance of it, the Government of India went back on its pledged word, and in contravention of the resolutions of August 1948 and January 1949, made the withdrawal of the bulk of its forces conditional. It said that the withdrawal of its forces in the truce stage would depend upon the disbanding and disarming of the *Azad* Kashmir forces which was not to take place in the truce stage at all, but only in a subsequent plebiscite stage. The Commission, after repeated efforts, came to the conclusion, as set forth in paragraph 245 of its third interim report, that:

"...India is not prepared to withdraw such part of its forces in Kashmir as might be characterized as the 'bulk', whether measured quantitatively or qualitatively, unless agreement with Pakistan on the large-scale disbanding and disarming of the *Azad* forces is reached."

Here there was no question of interpretation. The wording of the resolution was perfectly clear. It had been clearly interpreted both to the Government of India and to the Government of Pakistan by the Commission itself. As the language was clear, no question of interpretation arose and the interpretation had been accepted by both parties. Yet, the disbanding and disarming of the bulk of the *Azad* Kashmir forces, which was not to take place until the plebiscite stage, was made by India a prior condition to carrying out its obligation in the truce stage and to entering into a truce agreement.

The Commission did not know how to resolve this difficulty. Its position eventually was that both sides had accepted the agreement, and that question had arisen as to its meaning. According to us, there certainly was no such question, but India said that there was. Therefore, the Commission said that a question had arisen with regard to the meaning of what the parties had agreed to do. The Commission's own interpretation was clear, but India would not accept that. In this circumstance the Commission said that the only way to resolve the difference was to invite someone in whom the parties had confidence and who would be completely impartial, to arbitrate this point.

Inasmuch as the parties had already accepted Admiral Nimitz as the Plebiscite Administrator, and as he in any event had the power of the final disposal of the remaining forces on both sides, the Commission suggested that the parties should accept Admiral Nimitz to arbitrate on this difference which was blocking further progress in the settlement. This suggestion of the Commission was reinforced by earnest appeals by President Truman and Prime Minister Atlee. Pakistan accepted it, India rejected it. Its representatives said: "No, we will not go to arbitration." Here was an impasse. What would anyone suggest should happen in those circumstances? Two sides to a dispute enter into a solemn international agreement as to how the dispute is to be resolved. In the course of attempted progress toward the settlement of the dispute, a question arises, flimsy and unfounded according to us, but, nevertheless, let us say, according to India, a serious question of the interpretation of the document. The Commission, which was the author of the

agreement and the body which persuaded the parties to accept the agreement, gave its interpretation. India would not accept it. The Commission then proposed asking an impartial and trustworthy person to resolve the difference. India said: "No, we shall not go to arbitration." What is the position? Pakistan must accept what India says the agreement means, although clearly the agreement does not mean that. That is the spirit in which India goes on claiming that it has never disclaimed its obligations, it is all times ready, willing and eager to give the fullest effect to whatever it has agreed to. This device was simply to say: "We have not agreed to do this." The Commission says that it has agreed to do this; it says no. Pakistan says that it has agreed to do this; it says no. All right, let us ask a third person to consider everything and to say what India did agree to do. India answers: "No".

The Commission could do no more, and it reported the matter back to the Security Council. The Security Council requested its President, General McNaughton, to get in touch with the parties to try to resolve the deadlock that had arisen. General McNaughton, impressed with the fact that India's refusal to withdraw the bulk of its forces had been made in connexion with the *Azad* Kashmir forces, tried to meet the Indian objection by suggesting the withdrawal and disbandment of forces on both sides, including the *Azad* Kashmir forces and the State army and militia. That is to say, instead of the scheme in the resolutions that disarmament should take place in two stages, during the truce stage and then during the plebiscite stage, General McNaughton tried to erect a scheme under which the whole thing would take place as part of one operation, including the Pakistan Army and the *Azad* Kashmir forces on one side, and all of the Indian Army and the State forces and the State militia on the other. The Government of India flatly rejected General McNaughton's proposals mainly on the ground that he had suggested the disbandment of State armed forces. Pakistan accepted.

Now was this objection valid? The disbandment of the State armed forces was clearly again part of the resolution accepted

by India and Pakistan. Sub-paragraph 4 (a) of the resolution of 5 January 1949 reads:

"After implementation of parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions had been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite."

It was first argued that India could not accept any scheme of demilitarization which did not deal with the *Azad* Kashmir forces. Here is a scheme put forward which deals with everything. India then says it will not accept that scheme mainly on the ground that it deals with everything.

Another favourite device to which the Government of India often has recourse is to accuse Pakistan of aggression. I have to a large extent already dealt with this contention. The Pakistan Army moved in defence of Pakistan's own vital interest to hold certain defensive positions, this movement having taken place in May 1948. As a matter of fact, my learned and distinguished friend even supplied the date in his speech: 8 May 1948. This was known to the Government of India. I shall not again revert to the question of whether or not it constituted aggression. It was the plain duty of the Government of Pakistan. It was more: It was carrying out the object of the Security Council resolution of 17 January 1948 [S/651]. But apart from that, this was known to the Government of India, it had been argued before the Security Council and the United Nations Commission, and this fact had been taken into account in formulating the two resolutions of 13 August and 5 January. Whatever had happened, whether it was aggression or not, was clearly within the knowledge of both sides. It was within the knowledge of the Security Council before the resolutions were accepted, and it was within the knowledge of the Commission. In the situation as it was then that is to say in December 1948, India accepted the resolutions of 13 August

1948 and 5 January 1949. A slight confusion might arise from the fact that it is said the resolution of 5 January 1949 was accepted in December 1948. The actual formulation of the proposals by the Commission and its acceptance by the two governments was in December. The date of the incorporation of these proposals in a formal resolution is 5 January 1949. No new fact had entered into the situation. It was with full knowledge of the situation that the Government of India accepted the international agreement. Nevertheless, the Government of India has continually put this forward as an excuse for not fulfilling its obligations under the agreement. India says that the tribal incursions took place in October 1947 and continued for some weeks. India says that the Pakistan movement of forces into *Azad* Kashmir areas took place on 8 May 1948. India says that it will not carry out its obligations under the resolution of 5 January 1949, which it accepted in December 1948, because an aggression had been committed in May 1948. India accepted all these obligations after what it chose to call aggression had taken place. Can that be made an excuse today for not carrying out its obligations?

After India refused to accept General McNaughton's proposals [S/1453], the Security Council appointed Sir Owen Dixon as United Nations representative [471st meeting] to try to bring about an agreement with regard to demilitarization on the basis of General McNaughton's proposals. Sir Owen Dixon arranged a meeting of the two Prime Ministers with himself in Delhi in July 1950. The Prime Minister of India, at an early stage of the meeting, again advanced the contention that Pakistan was an aggressor and should be declared such. Finding that no progress was possible unless he could do something to put this red herring out of the way, Sir Owen Dixon made certain observations, as will presently be seen from the language applied by him, as it were, for argument's sake. I shall draw the attention of the Security Council to the statement of Sir Owen Dixon in this connexion, as it continues to be contended throughout that he branded Pakistan an aggressor in this controversy. In paragraphs 21-23 of his report, Sir Owen Dixon said:

"Upon a number of occasions in the course of the period beginning with the reference on 1 January 1948 of the Kashmir dispute to the Security Council, India had advanced not only the contention to which I have already referred that Pakistan was an aggressor, but the further contention that this should be declared. The Prime Minister of India, at an early stage of the meeting made the same contention and he referred to it repeatedly during the conference. I took up the positions, first, that the Security Council had not made such a declaration; secondly, that I had neither been commissioned to make nor had I made any judicial investigation of the issue; but, thirdly, that without going into the causes or reasons why it happened, which presumably formed part of the history of the sub-continent, I was prepared to adopt the view that when the frontier of the State of Jammu and Kashmir was crossed on, I believe 20 October 1947, by hostile elements, it was contrary to international law, and that when, in May 1948, as I believe, units of the regular Pakistan forces moved into the territory of the State, that too was inconsistent with international law.

"I therefore proposed that the first step in demilitarization should consist in the withdrawal of the Pakistan regular forces commencing on a named day. After a significant number of days from the named day, then other operations on each side of the cease-fire line should take place and as far as practicable, concurrently. What number of days should be fixed as significant was a matter of detail for them to settle.

"The Prime Minister of Pakistan expressed strongly his dissent from the third of the three positions I took up, that is to say, the third of the positions stated above. But he expressed his readiness to accept, in compliance with my request, the proposition that as a first step in demilitarization the withdrawal of the regular forces of the Pakistan Army should begin on a specified day and that a significant number of days should elapse before the commencement of

any operation involving forces on the Indian side of the cease-fire line."

The whole matter is perfectly clear. Sir Owen Dixon found that this matter of aggression was being brought up time and again before the Security Council and before other authorities, and was now being insisted upon being raised before him. He said that the Council had not decided on this. Obviously he meant that he had no authority to decide here either. He said: "I have not been commissioned to carry out a judicial investigation of this matter." In fact he said: "I have not carried out any such investigation, but for purposes of getting on to demilitarization, I am prepared to make this assumption; and on the basis of that assumption I proposed that the Pakistan Army should start moving first, and that after a significant number of days had passed after the first movement had started, then later on the demilitarization should be synchronized." There is no finding here of aggression. It was a position which Sir Owen Dixon was prepared to adopt in order to proceed with demilitarization.

The Prime Minister of Pakistan took serious objection to this third position that he should make any such assumption, but he said: "For the purpose of facilitating the demilitarization, we are prepared to accept what you propose."

I have quoted this extract to show the Security Council how unfounded is the deduction which my learned and distinguished friend has tried to draw from these observations of Sir Owen Dixon. Still another excuse which India constantly put forward for its failure to carry out its obligations, is its professed fear for the security of the State. Its apprehensions are alleged to arise from fear of an attack by Pakistan or by tribesmen. Pakistan has repeatedly given assurances. It has expressed its readiness—I believe at least before General McNaughton—to give a guarantee that Pakistan would be prepared to take necessary and adequate action, even military action, if needed, to stop any incursion of tribesmen into the State. But India says: "What about an attack by Pakistan forces?"

In the first place, a guarantee and an assurance of that kind to the United Nations should be enough. But in the second

place, look at the problem. Pakistan is eager to obtain a settlement of this question through a fair and impartial plebiscite. Would it be the first to destroy every chance of that settlement being arrived at by mounting an invasion of the State after the cease-fire had taken place and the truce had been settled? Would it not completely put itself out of consideration forever in this dispute if it took action of that kind? Would any reasonable government lend itself to an action or a policy of that kind? Nevertheless, India continues to express apprehensions on that score.

But apart from disregarding the assurances of the Pakistan Government, and apart from disregarding what is perfectly patent in the situation itself, India forgets that the matter of the security of the State has been dealt with in the resolution itself.

Even in his speech of 1 March, my learned friend stated that what has been described or continuously described by other people as India's intransigence is "no more than an insistence on pledges already given to India, particularly on questions relating to the security of Kashmir".

He went on to argue later that it was not necessary to go into the conditions of a fair and impartial plebiscite since the resolutions of the United Nations Commission for India and Pakistan took care of that. But he conveniently overlooked the fact that the security of the State is also taken care of by those very resolutions I have read out, and sub-paragraph 4 (a) of the resolution of 5 January 1949 invests the Plebiscite Administrator with power to carry out the final disposal of all the forces remaining in the State, with due regard to the security of the State and the freedom of the plebiscite. But the difference is this. India insists that it alone is the judge of what is needed for the security of the State. However, it has already agreed, in the resolutions which it has accepted and which have become an international agreement, that that matter is to be kept in mind by the Plebiscite Administrator when he carries out the final disposal of the military forces on both sides. Responsibility rests on him and not on India.

When the Commonwealth Ministers met in London in January of this year—and they also discussed the Kashmir

question—the Prime Minister of India again put forward the security of the State as his excuse for its refusal to withdraw Indian forces from the State. Since the Commonwealth Prime Ministers recognized that no free plebiscite could be held in the presence of Indian troops, they tried to meet the Indian Prime Minister's apprehensions, however groundless they themselves thought them to be, by offering, at their own expense, Commonwealth forces for purposes of the plebiscite.

This generous offer was again accepted by Pakistan, but was rejected by India. Again, they made an alternative proposal. They said: "All right, let the small force needed be provided jointly by India and Pakistan." Pakistan accepted it and India rejected it. They then made a third proposal. They said: "Let the Plebiscite Administrator raise a local force from all elements of the population of Kashmir for that purpose." Pakistan accepted; India rejected.

Everybody who has tried to deal with this situation comes up against that difficulty, that India goes on raising excuse after excuse for not doing what is set forth perfectly clearly in its language and in its implications, and what was clearly accepted by India as binding, and which we continue to affirm is binding upon it.

This is the manner in which Sir Owen Dixon sums up the situation [*S/1791, para. 52*]:

"In the end I became convinced that India's agreement would never be obtained to demilitarization in any such form, or to provisions governing the period of the plebiscite of any such character, as would in my opinion permit the plebiscite being conducted in conditions sufficiently guarding against intimidation and other forms of influence and abuse by which the freedom and fairness of the plebiscite might be imperilled."

Why does India go on insisting on these things which make demilitarization and, therefore, the holding of the plebiscite impossible? For the obvious reason that India's hold over Kashmir is only through its military forces, India does not

want to let go and India knows that if a fair and impartial plebiscite were held, the plebiscite would go heavily against India. Therefore, it is determined to keep its forces in the State and to prevent a free vote. That is the situation. It has been repeatedly tried. People started with the hope that India's apprehensions with regard to various matters may have been genuine. They thought they were flimsy, but that, supposing they were genuine so far as the Indians are concerned, they should be met. Every possible effort has been made to meet those apprehensions, but India would have none of it. Why? Because India does not desire to go through with the plebiscite.

My learned and distinguished friend has painted an idyllic picture of conditions in India, of India's secularism, its regard for minorities, and the manner in which administration in Kashmir is carried on by a Cabinet of seven in which five are Muslims. But these are wholly irrelevant considerations to the question the Security Council has under consideration, namely, the holding of a free plebiscite. If we assume that all this is true and that conditions in India are ideal, then what follows? Either Kashmir must accede to India—and is that the conclusion to be drawn?—or if a plebiscite is to be held, it must be held while the greater part of Kashmir or the most densely populated portions of Kashmir are held by Indian military forces and the administration is carried on by a nominee and creature of India. Does that follow from these conditions in India, even if such conditions exist? And does my learned friend, by implication, mean that they do not exist in Pakistan? Are we now to embark on an investigation of these factors in order to determine whether or not the plebiscite is to be held or, if it is to be held, under what conditions it is to be held? These are wholly irrelevant considerations. I will not therefore refer to the numerous disabilities, political, economic, cultural and social, from which Muslims in India continue to suffer. Nor need I deal with the wholly unfounded insinuations about conditions in Pakistan, which the representative of India has sought to make through the mouth of the Kashmir National Conference. I will also not dwell on the abject misery and terror in which the people in Indian-occupied Kashmir are

living, except perhaps again to quote an eminent Hindu Kashmiri, Prem Nath Bazaz. He said:

"Pandit Nehru said the present government in Kashmir stands because of its own strength. What are the signs of their strength? All papers and periodicals which do not agree with Sheikh Abdulla, particularly in the matter of accession, and are critical of the views and doings of the Nationalists, have been suppressed. All parties other than the National Conference, be they communal or non-communal, which oppose the present regime even peacefully and constitutionally, are not allowed to hold meetings.

"There is no free platform—in fact, no institution to vindicate the people's rights or ventilate the public's grievances.

"Never before, even in the reign of the hated Dogras, were Kashmiris victimized and ruled so despotically as is done now under Sheikh Abdulla as the Chief Minister of the Maharaja. All vestiges of freedom gained by manifold sacrifices during the last hundred years have disappeared. Nationalist rule stands on the strength of Indian bayonets, and not on its own strength or efficiency. That is the naked truth and the tragic story of Kashmir."

In fact, the truth is that every State that imposes its rule by force upon another is able to find some Quislings and parade its support by these Quislings as proof that it rules by popular consent.

Sir Benegal Rau has invited the testimony of tourists to conditions in the beautiful Kashmir Valley. I might perhaps be permitted to quote the opinion of one who went to the Valley of Kashmir not as a tourist but as a United Nations representative. I quote from Sir Owen Dixon's report [*S/1791, para. 88*]:

"I had formed the opinion that it was not easy to exclude the danger that the inhabitants of the Valley of Kashmir would vote under fear or apprehension of consequences and other improper influences. They are not high-spirited people of an independent or resolute temper. For the most part

they are illiterate. There were large numbers of regular soldiers of the Indian Army as well as of the State Militia and police, and more often than not they were under arms. The State Government was exercising wide powers of arbitrary arrest. These are not matters that the Kashmiris inhabiting the Valley could be expected to disregard in choosing between voting as the Government of Kashmir asked them and voting for accession to Pakistan."

Lest there be any misunderstanding with regard to the character and qualities of the people inhabiting the different parts of the State of Jammu and Kashmir, I might explain that this refers to the Valley, as Sir Owen Dixon has made clear, and not to Punch, where the liberation movement started and the greater part of which is under the administration of the *Azad Kashmir Government*.

The Kashmir Democratic Union, which is presided over by Pandit Prem Nath Bazaz, to whom I have already referred several times, stressed the fact, in its resolution adopted on 26 February of this year, that the people of Jammu and Kashmir had during three and a half years suffered incredible hardships in every sphere of life under the "authoritarian, unrepresentative and unwanted Abdulla Government," and urged the Security Council to ensure the speedy holding of a free and impartial plebiscite under United Nations auspices.

Another topic which has lately become a favourite with the Government of India and its representatives is that the Kashmir question should not be represented as a Hindu-Muslim question; and it challenges the argument that, since Kashmir is predominantly Muslim, it should rightfully accede to Pakistan.

I think that first I might clear the ground. It is well known that, although every factor on the basis of which the question of accession should be determined—population, cultural and religious bonds, the flow of trade, the economic situation, communications, the geographical position, strategic considerations—points insistently in the direction of the accession of Kashmir to Pakistan, nevertheless we have not asked for the accession of Kashmir to Pakistan on those grounds. We have agreed, and we have been insistent, that the question should be settled

through the freely expressed wishes of the people of the State. But that these matters do come into the picture is admitted by everybody who is concerned with the conditions. It was the basic fact underlying the partition of India itself, and, whenever a question has arisen with regard to the accession of a State with a majority of non-Muslim population, India itself has always stressed that fact. India takes objection to it and demurs against it only when the same principle is sought to be applied to Kashmir.

As the Security Council is well aware, there were two States, Junagadh and Hyderabad, which had a majority of non-Muslim people and a Muslim Ruler. Junagadh acceded to Pakistan. Hyderabad—a country with 17 million people, vast territories, flourishing economic conditions—desired to remain independent. We shall see what happened with regard to each of these States.

When the Government of India came to know that the Ruler of Junagadh contemplated accession to Pakistan, the Prime Minister of India sent a telegram to the Prime Minister of Pakistan, dated 12 September 1947, in the course of which he said, in paragraph 4:

"The population of Junagadh, according to the 1941 census, is 671,000, of which no less than 543,000, or 80 per cent, are Hindus. This large majority of the population of the State has made it clear to the Ruler of Junagadh in no uncertain terms that they are opposed to Junagadh acceding to the Dominion of Pakistan and that they wish that the State should accede to the Dominion of India."

He went on, in paragraph 5, as follows:

"The Dominion of India would be prepared to accept any democratic test in respect of the accession of the Junagadh State to either of the two Dominions. It would accordingly be willing to abide by a verdict of its people in this matter, ascertained under joint supervision"—and this is important—"of the Dominion of India and Junagadh."

The telegram continued:

"If, however, the Ruler of Junagadh is not prepared to submit this issue to a referendum, and if the Dominion of Pakistan, in utter disregard of the wishes of the people and the principles governing the matter, enters into an arrangement by which Junagadh is to become a part of the Federation of Pakistan, the Government of India cannot be expected to acquiesce in such an arrangement."

This was followed, on 22 September, by a telegram from the Governor-General of India to the Governor-General of Pakistan, which stated:

"The Pakistan Government has unilaterally proceeded to an action in which, it was made plain, the Government of India could never and does not acquiesce. Acceptance of accession to Pakistan cannot but be regarded by the Government of India as an encroachment of Indian sovereignty and inconsistent with the friendly relations that should exist between the two Dominions."

That is worthy of note. This was long before the events in Kashmir, which took place in October, more than a month after the date of the second telegram and nearly six weeks after the date of the first telegram. And here is the principle: that the acceptance of accession, by a Dominion, of a State the majority of whose people are opposed to that accession is "an encroachment on the sovereignty and territory" of the other Dominion and is "inconsistent with the friendly relations that should exist between the two Dominions". Substitute Kashmir for Junagadh and read, *mutatis mutandis*, the principle which the Government of India itself is urging should be accepted.

The telegram goes on:

"This action of Pakistan is considered by the Government of India to be a clear attempt to cause disruption in the integrity of India by extending the influence and boundaries

of the Dominion of Pakistan in utter violation of the principles on which partition was agreed upon and effected."

What were those principles? The partition of India was agreed upon and effected on the principle that contiguous majority Muslim areas would constitute Pakistan, and contiguous majority non-Muslim areas would constitute India. That was the principle. And that is what the Governor-General of India was stressing: "You have accepted the accession of Junagadh, the majority of whose population is non-Muslim. This is contrary to the principle upon which the partition of India took place. Therefore, your action is in utter violation of the principles of the partition and is a clear attempt to cause disruption in the integrity of India."

Why does not India's action in respect of Kashmir amount to a disruption of the integrity of Pakistan? Why is it not in utter violation of the principles upon which the partition was accepted. Indian army marched into Junagadh and occupied it with its military forces. That occupation still continues; that aggression is in operation. In fact, the matter is before the Security Council, and that problem also has to be resolved by the Council. India also marched into Kashmir, it occupied the greater part of populated Kashmir—and it does not suit India to apply to Kashmir those principles which it insisted should be applied to Junagadh.

It has been said, on one occasion: "But, you see, in the case of Junagadh, the Diwan"—the Prime Minister—"invited the Government of India to take over the administration." Under what circumstances did the Diwan extend that invitation, if any such invitation was extended? The Government of India set up within its own boundaries, or at least permitted to be set up, with its connivance, a Government of Junagadh. That Government of Junagadh, at the very least with the connivance of the Government of India, from outside Junagadh, that is to say, from Indian territory, continued to create disorder and disruption inside Junagadh, until it brought about a state of complete chaos within Junagadh. The Indian Army then marched in—is

the Government of India says, on the invitation of the Prime Minister—to maintain law and order.

It is a point worthy of note that in Kashmir the Maharaja had a standstill agreement with Pakistan.

He had no standstill agreement with India, India had no business with Kashmir, and no kind of invitation could have been extended to India. In the circumstances that I have related, an offer by the Maharaja to accede to India was, in terms used by India itself, an attempt to disrupt the integrity of Pakistan by extending the influence and boundaries of the Dominion of India in utter violation of the principles upon which partition was agreed upon in the first place.

The telegram goes on to say:

"In the circumstances I hope it will be possible to prevail upon the Government of Pakistan to reconsider its position, otherwise the responsibility and the consequences must, I am compelled to inform you, rest squarely on the shoulders of the Pakistan Government."

Then this curious offer is again repeated:

"The Government of India is, however, prepared to accept the verdict of the people of Junagadh in the matter of accession, the plebiscite being carried out under the joint supervision of the Indian and Junagadh Governments."

When it is a question of the accession of a State with a majority of Hindus in its population, a plebiscite must be carried out under the joint auspices of the Government of that State and the Government of India. That is the principle, so that the people may be in a position freely to express their wishes. When the majority of the population is Muslim and a plebiscite is to be organized and held to ascertain their wishes, that plebiscite should be carried out under Indian military occupation and under the administration in the State by government nominated by India. That is what the Security Council is asked to accept.

What happened in Hyderabad? Hyderabad wanted to remain independent; it was prepared to do anything by treaty that India wanted it to do by accession. Eventually, it was even prepared to hold a plebiscite in order to determine whether the people of Hyderabad wanted to accede to India or remain in treaty relations with it. India refused to accept any of the offers, marched its troops in and occupied the State—it is still in occupation of the State—and that problem is also before the Security Council.

Junagadh's accession to Pakistan is challenged by India. The Hyderabad Ruler is denied the right to remain independent, but the Maharaja of Kashmir, in circumstances when his rule had been repudiated in the rarest possible manner by the majority of his subjects and when he had, by his own ruthless persecution of his own people, forfeited the right to continue to rule, signed an instrument of accession in a conspiracy which, as I have already briefly indicated, is regarded by India as completing the legal requirements and converting Kashmir into a unit of the Indian Federation. It is this wholly invalid transaction which is used as the cloak for Indian aggression in Kashmir.

There are other areas also in which Indian aggression has been at work, but I do not refer to them here. The stark truth of the situation, in brief, is that in South Asia today Indian aggression is on the march. It has used various devices to camouflage itself. Sometimes, as in Junagadh, it operates in the name of Indian integrity. It was hard put to it to find any excuse for what is called "police action" in Hyderabad, when in truth as everyone knows it was nothing less than military invasion on a large scale. In Kashmir it takes on the labour of a spurious legality, and in other areas it has been used and continues to use the sacred name of democracy.

The elephant is an animal which is very useful and which is also revered in India. As a matter of fact the forward half is even regarded in Indian mythology as a god, but there is a very significant proverb with regard to the elephant which completely illustrates the position that India continues to adopt

with regard to the obligation to carry out what it undertook to do. The proverb says: "The elephant has one set of teeth for show and another set for eating." The resolutions of August 1948 and January 1949 of the Commission are ivory tusks for show. India has accepted those resolutions. The real business of masticating and digesting Kashmir is being carried on in another manner. For what purpose the Government of India has another device which it is carrying out step by step. The device was first put forward by the Indian representative to the President of the Security Council in January 1948, more than three years ago, when the Security Council to bring the case for the first time, asked its then President, Mr. van Langenhove [229th meeting], to hold discussions with the two parties. The Indian representative, Mr. Gopalaswami Ayyangar, proposed that the Maharaja's interim government in Kashmir, as soon as the restoration of normal conditions had been completed, should take steps to convoke a national assembly. A national government based upon the national assembly was to have a plebiscite taken on the question of accession. The national assembly was also to frame a new constitution. Since all of those steps were to be taken in the presence of Indian troops and by the Indian-controlled interim government, the result was a foregone conclusion. The President of the Security Council was not prepared to look upon the scheme as providing a fair means for ascertaining the wishes of the people of the State. That, however, not deterred the Government of India from putting the scheme into effect. It will not carry into effect its obligations under the international agreement; it is going forward with its own scheme step by step.

In presenting the scheme to Mr. van Langenhove, Mr. Gopalaswami Ayyangar maintained the elaborate pretence that the decision whether or not to give effect to it rested with the autonomous Maharaja's Government, and that the Government of India could not impose any decision on that government. The manner in which the Government of India during the last three years has liquidated those autonomous princely states is by now well-known to the world.

The representative of India, in repeating his predecessor's observations about the autonomy of the Maharaja's Government in Kashmir and the limitations of the Government of India in dealing with it, is presuming a little too much upon the credulity of the world.

In pursuance of the scheme, the Government of India has included the State of Jammu and Kashmir in part B of the first schedule of the Constitution of India as one of the units of the Indian Union, and has provided in article 370 of the Constitution for a constituent assembly to be elected in Kashmir. The constituent assembly which is now being elected in Kashmir is thus the result of a long thought out scheme, and is a clear indication that the Government of India had never any intention of proceeding with a free plebiscite under United Nations auspices, for if such a plebiscite is to be held at an early date to decide whether Kashmir should accede to India or to Pakistan, there should be no necessity for holding elections to a constituent assembly to determine Kashmir's constitution, there should be no necessity even to determine Kashmir's constitution.

The real intention of the Government of India in these matters has already been given out by the Prime Minister of India as reported in *The Statesman* of 30 October 1950. The representative of India assured the Security Council the other day that it was not intended that the constituent assembly should determine the question of the accession of the State and that in any case it would not stand in the way of the Security Council. Let us see what the illustrious Prime Minister of India has said on that point, as recently as the end of October last. I am quoting from *The Statesman* of 30 October, when Prime Minister Nehru is quoted as having spoken in Simla on 28 October, and these are the extracts to which I desire to draw attention:

"Addressing the National Conference workers here today, Pandit Nehru reaffirmed India's policy on Kashmir and said ultimately it was the people of Kashmir who had to decide their future. Pandit Nehru thought, however, that if Kashmir went to Pakistan, it would be completely ruined.

'I want Kashmir to be part of India. I wish Kashmir and India to have cordial relations. I do not want Kashmir to be ruined'."

I have no doubt the people of Kashmir are duly grateful to him for those sentiments. The report went on:

"He expressed amazement at United Nations delay in coming to a decision regarding Kashmir."

This is a sentiment of which I have no doubt the Security Council will take due note:

"Referring to the resolution passed yesterday by the All-Jammu-Kashmir National Conference proposing the setting up of a constituent assembly based on adult franchise for determining the future shape and evolution of the State, Pandit Nehru welcomed the proposal and said it would further strengthen the National Conference in the elections and would also enable it to know the people's wishes. It was possible, he said, that some countries might object to the holding of elections on the plea that the Kashmir question was before the United Nations and still remained undecided, but that would be a wrong approach, as the people in Kashmir could not stop all their activity and just adopt an unhelpful attitude of wait and see."

That makes it quite clear what the object of the assembly is. It is that the assembly should be able to determine the future shape and evolution of the State. But the matter is not left there; later on the Prime Minister is reported as having said:

"India never accepted the two-nation theory even when the country was partitioned. Today also it will never agree to it. Moreover, India and Kashmir have developed closer ties. Kashmir is part of our heart. Naturally these sentiments will affect the attitude of the people of Kashmir towards India, although ultimately the people of Kashmir, through

an elected constituent assembly, will ratify the formal accession of the State to India."

It will be for the Security Council to determine on which statement to place reliance, that of the Prime Minister who says that is the object of the assembly, or that of the representative of India, who says that is not the object of the assembly.

Replying to a question in the Indian Parliament, whether it would be competent for the constituent assembly in Kashmir to decide whether to accede or not, Mr. Gopalaswami Ayyangar said:

"There is nothing which can prevent the constituent assembly from pronouncing its opinion on that question."

This is what Sheikh Abdulla says, and I am quoting from the *New York Times* of 25 February 1951:

"Sheikh Abdulla announced today his Kashmir National Conference party would go ahead with plans for electing a constituent assembly in September. This body will then decide whether Kashmir will accede to India or Pakistan on the basis that the assembly consists of elected representatives of a majority of the people. In the view of Sheikh Abdulla's firm control—which Sir Owen Dixon, former United Nations mediator, in his report likened to that of a police State—there is little doubt of the outcome."

Nevertheless, the representative of India stated to the Security Council that, "so far as the Government of India is concerned, the constituent assembly is not intended to prejudice the issues before the Security Council or to come in its way". I have no doubt, after what I have quoted from the speeches of the Prime Minister of India and from the Prime Minister of the State of Kashmir appointed by the Government of India—though nominally by the Maharaja—some clarification of the position becomes necessary as to what the basis is on which one is to deal with this question. It is obvious, however, that those

on the spot know best what they intend to do because they are doing it. Both of them, Sheikh Abdulla and the Prime Minister of India, declared that the constituent assembly will determine the question of accession of the State to India or to Pakistan.

